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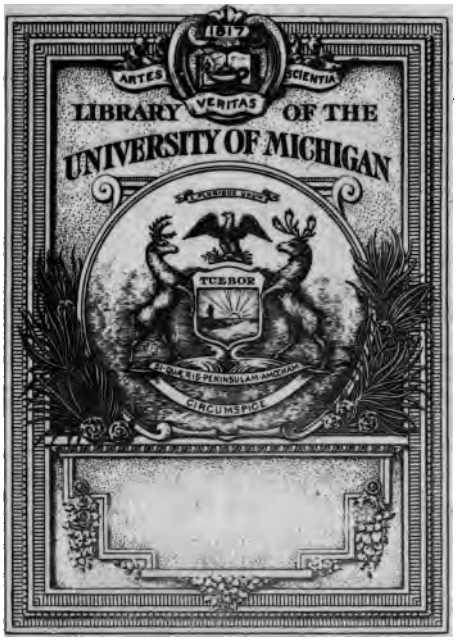

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WHERE THE PEOPLE RULE

OR

THE INITIATIVE AND REFERENDUM, DIRECT PRIMARY LAW AND THE RECALL IN USE IN THE STATE OF OREGON

BY
GILBERT L. HEDGES, B.A., LL.B.

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PREFACE

In an endeavor to make their government more responsive to their will, the people of the State of Oregon have enacted into law the Initiative and Referendum, Direct Primary Law, and the Recall. The purpose of this volume is to show what these laws are, how they operate, and what results have been obtained by their use. In order to acquaint the reader with important changes made in the organic act of the State, the Constitution with suitable annotations is appended. For convenience and ready reference a complete index is included. The author trusts that this little volume may prove serviceable to the lawyer, student and citizen alike. G. L. H.

Oregon City, Oregon, August 5, 1914.

WHERE THE PEOPLE RULE

OR

THE INITIATIVE AND REFERENDUM, DIRECT PRIMARY LAW AND THE RECALL IN USE IN THE STATE OF OREGON

TABLE OF CONTENTS.

CHAPTER I.

INITIATIVE AND REFERENDUM.

	Page.
Adoption of Amendment	1
Text of the Amendment	2
Enlarging and Extending the Initiative and Referendum Powers	3
Further Amendment	4
Initiating a State Law	4
Referring an Act of the Legislature	9
Procedure in Cities and Towns	10
Penalties	12

CHAPTER II.

INITIATIVE AND REFERENDUM IN THE COURTS.

General Interpretation	13
Constitutionality	17
Veto Power of Governor	18
Emergency	18
Title of Measure	20
Meaning of Words	22
Self-Executing	23
Municipal Legislation	24
Restricting the Legislature	27
Constitutional Amendment—Construction	27
Petitions	28

CHAPTER III.

INITIATIVE AND REFERENDUM IN PRACTICE.

Preparing Measures	29
Circulating Petitions	31
The Pamphlet	32
Campaigning	33
Number of Votes Cast	35
Amount of Popular Legislation	37

TABLE OF CONTENTS

CHAPTER IV.

DIRECT PRIMARY LAW.

	Page.
Enactment	45
Preamble	45
Rules of Construction	46
Date of Primary Election	47
Candidates for President and Vice President of the United States	47
Delegates to National Conventions	48
Pay and Oath of Delegates to National Conventions	49
Space in Campaign Book	50
Election Precincts and Boards	51
Notice of Election	52
Procedure in Municipal Elections	53
Counting the Vote	55
Primary Deemed Separate Election for Each Political Party	56
Tally Sheets	56
Count Completed and Authenticated	59
Political Party Defined	60
Electing National Committeemen	61
Candidates to File Petitions for Nomination	61
Form of Petition—Statements Nos. 1 and 2	62
Number of Signatures Required—Distribution	65
Qualifications of Signers	66
Time of Filing Petitions	67
Register of Candidates to Be Kept—Contents	67
Registers to Be Public Documents	68
Death or Withdrawal—Vacancies	68
When Ballots to Be Arranged by Secretary of State and Sent to Clerks	69
Local Officer to Prepare and Post Ballot	69
Ballots and Sample Ballots	70
Arrangement of Ballot	70
Official and Sample Ballots to Be Furnished	79
Vacancies and Cancellations—Ballot Boxes, Supplies	80
Method of Voting	80
Provisions of Election Law Applicable	81
Candidates for Senator to Be Voted for	82
Canvass and Abstract of Votes	82
Abstracts Sent to Secretary of State—Canvass by State Officers	84
Correction of Errors or Wrongful Acts by Courts	85
Messenger to Be Sent for Delayed Returns	85
Penalty for Wrongful Acts by Officers	86
Notice of Contest	86
How Served and Hearing Thereon	86
Procedure in Contests	87

TABLE OF CONTENTS

Page.

Statement of Party on Registration 88
Election and Duties of Party Committees 89
Penalty for Wrongful Acts by Candidates 90
The Direct Primary Law in Practice 91

CHAPTER V.

THE RECALL.

Enactment 93
Text of the Recall 93
The Recall in the Courts 94
The Recall in the City of Portland 95
The Recall in Klamath County 97
The Recall in Clackamas County 99
The Recall in Hood River County 102
The Recall in the City of Salem 107
The Recall in the City of Medford 107
The Recall Generally 109

CHAPTER VI.

COMMENT.

General Remarks 111
A New Court 112
The People Versus the Legislature 113
Compulsory Voting 113
Conclusion 114

APPENDIX A.

Copy of Sample Ballot Used at a Recall Election 115

APPENDIX B.

Sections of the Oregon Code Made Applicable to the Direct Primary Law 117

APPENDIX C.

Example of Newspaper's Recommendations on Proposed Measures 143
Constitution of Oregon 149

CHAPTER I.

INITIATIVE AND REFERENDUM.

Adoption of Amendment.—Among the numerous bills, memorials and resolutions introduced in the Twentieth Legislative Assembly of the State of Oregon, there was a resolution proposing an amendment to Section 1, Article IV of the State Constitution. Deemed of little importance at the time, it marked the beginning of a new political system which was destined to revolutionize the legislative methods of a sovereign state and make the people themselves the final judges of the laws which should govern them. This was the initiative and referendum amendment. It passed the assembly without much controversy and conformable to the constitutional provision then in force the resolution was submitted to the next regular legislative assembly which convened in January, 1901. Here again the proposed amendment was favorably received and passed practically without dissent. At the regular election held in June, 1902, the amendment was placed upon the ballot and the electors throughout the State filed to the booths to pass judgment. When the votes were counted, the friends of the measure, who had worked industriously for its passage, were gratified to learn that it had carried by a decisive vote. The initiative and referendum method of enacting and rejecting proposed laws thus became a part of the organic act of the State of Oregon.

Text of the Amendment.—Section 1, Article IV, of the Constitution of Oregon as thus amended is as follows:

ARTICLE IV.

1. The legislative authority of the state shall be vested in a legislative assembly, consisting of a senate and house of representatives, but the people reserve to themselves power to propose laws and amendments to the constitution and to enact or reject the same at the polls, independent of the legislative assembly, and also reserve power at their own option to approve or reject at the polls any act of the legislative assembly. The first power reserved by the people is the initiative, and not more than eight per cent of the legal voters shall be required to propose any measure by such petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the secretary of state not less than four months before the election at which they are to be voted upon. The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health, or safety), either by the petition signed by five per cent of the legal voters, or by the legislative assembly, as other bills are enacted. Referendum petitions shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the legislative assembly which passed the bill on which the referendum is demanded. The veto power of the governor shall not extend to measures referred to the people. All elections on measures referred to the people of the state shall be had at the biennial regular general elections, except when the legislative assembly shall order a special election. Any measure referred to the people shall take effect and become the law when it is approved by a majority of the votes cast thereon, and not otherwise. The style of all bills shall be: "Be it enacted by the people of the state of Oregon." This section shall not be construed to deprive any member of the legislative assembly of the right to introduce any measure. The whole number of votes cast for justice of the supreme court at the regular election last preceding the filing of any petition for the initiative

or for the referendum shall be the basis on which the number of legal voters necessary to sign such petition shall be counted. Petitions and orders for the initiative and for the referendum shall be filed with the secretary of state, and in submitting the same to the people he, and all other officers, shall be guided by the general laws and the act submitting this amendment, until legislation shall be especially provided therefor.

Enlarging and Extending the Initiative and Referendum Powers.—While the amendment to Section 1, Article IV, of the Constitution created and defined the initiative and referendum powers as to general legislation, to make this mode of government complete it was found necessary to enlarge the powers already granted and to extend them to local legislation. Accordingly an amendment to effect this purpose was proposed by initiative petition at the regular election in June, 1906, and adopted by the people. This amendment is designated as Section 1a, Article IV of the Constitution and is as follows:

ARTICLE IV.

1a. The referendum may be demanded by the people against one or more items, sections, or parts of any act of the legislative assembly in the same manner in which such power may be exercised against a complete act. The filing of a referendum petition against one or more items, sections, or parts of an act shall not delay the remainder of that act from becoming operative. The initiative and referendum powers reserved to the people by this constitution are hereby further reserved to the legal voters of every municipality and district, as to all local, special, and municipal legislation, of every character, in or for their respective municipalities and districts. The manner of exercising said powers shall be prescribed by general laws, except that cities and towns may provide for the manner of exercising the initiative and referendum powers as to their municipal legislation. Not more than ten per cent of the legal voters may be required to order the referendum nor more than fifteen per cent to propose any measure, by the initiative, in any city or town.

Further Amendment.—The amendment to Section 2, Article XI, of the Constitution, which must be construed with Section 1a, Article IV, was proposed by initiative petition and adopted at the election held in June, 1906. This amendment deprives the legislature of the power to repeal or modify municipal charters by special act. It also grants to the people of every municipality, city and town the power to enact and amend their charters, subject only to the Constitution and the criminal laws of the State. The text of this amendment is as follows:

ARTICLE XI.

2. Corporations may be formed under general laws, but shall not be created by the legislative assembly by special laws. The legislative assembly shall not enact, amend, or repeal any charter or act of incorporation for any municipality, city, or town. The legal voters of every city and town are hereby granted power to enact and amend their municipal charter, subject to the constitution and criminal laws of the state of Oregon.[1]

Initiating a State Law.—The legislative assembly, by act filed in the office of the Secretary of State February 25, 1907, has provided a procedure for the use of the powers granted in the three constitutional amendments above mentioned. Minor changes have been made in the provisions of this act since its passage.

The steps necessary to be taken to enact a State law or to amend the Constitution by the initiative are the same.

After a proposed State law, or measure, has been drawn up, the next step is to prepare petitions for signature. An initiative petition may be in substantially the following form:

1 This section was further amended through the initiative at the general election held November 8, 1910, by adding a clause authorizing municipalities to control or prohibit the sale of intoxicating liquor within their boundaries. Not being pertinent, this clause is omitted.

WARNING.

It is a felony for any one to sign any initiative or referendum petition with any name other than his own, or to knowingly sign his name more than once for the measure, or to sign such petition when he is not a legal voter.[1]

INITIATIVE PETITION.

To the honorable ....., secretary of state for the state of Oregon:

We, the undersigned citizens and legal voters of the state of Oregon, respectfully demand that the following proposed law (or amendment to the constitution), shall be submitted to the legal voters of the state of Oregon, for their approval or rejection at the regular, general election, to be held on the .... day of ....., A. D. 19..., and each for himself says: I have personally signed this petition; I am a legal voter of the state of Oregon; my residence and post-office are correctly written after my name.

Name..... Residence..... Post-office.....

(Here follow twenty numbered lines for signatures.)

Before or at the time the petitions are placed in circulation, the person or organization under whose authority the measure is to be initiated shall file a signed copy of such petition in the office of the Secretary of State. The Secretary shall immediately examine the same and specify the form, kind and size of paper on which the petition shall be printed for circulation. The petitions and sheets for signatures must be printed on a good quality of bond or ledger paper. The pages shall be 8½ inches wide and 13 inches long, with a clear margin of 1¾ inches at the top for convenience in binding.

To every sheet of petitioners' signatures shall be attached a full and correct copy of the proposed measure; and not more

1 The warning clause is directory only. Its omissions from a referendum petition does not render said petition void.—Palmer v. Benson, 50 Or. 269.

than twenty signatures on one sheet shall be counted. Eight per cent of all votes cast for Justice of the Supreme Court at the regular election, preceding the filing of the petition, shall be the number of signatures required on an initiative petition. This number is at present 10,099.

Each sheet of the petition containing signatures must bear on its face a verification affidavit of the circulator. This affidavit must show that the circulator is acquainted with all the persons who signed the sheet and that the signatures were attached thereto in his presence; that he believes each has stated his name, post-office address and residence correctly; and that he believes each signer is a legal voter of the State of Oregon, and County of .....

After the required number of names has been secured and the separate sheets have been properly verified, the petition is ready for the Secretary of State. It must be filed in his office not later than four months before election. If, upon presentation, the Secretary shall refuse to accept and file the petition, any citizen may apply, within ten days after such refusal, to the circuit court for a writ of mandamus to compel him to file the same.[1] If the court shall decide that the petition is legally sufficient, the Secretary of State shall then file it, with a certified copy of the court's decision attached, as of the date when the petition was originally offered for filing. On a showing made that the petition is not legally sufficient[2] the court may enjoin the Secretary of State and all other officers from printing the title and number of the petition on the ballot. The circuit court shall advance all such cases on its docket and shall hear

1 The limitation of 10 days laid down for mandamus proceedings does not apply to the equitable remedy of injunction which itself is prescribed for an entirely different purpose.—Friendly v. Olcott, 123 P. 53.

2 By the term "legally sufficient," the Legislature meant to describe a valid petition, signed by legal voters, and complying substantially, not necessarily technically, with the requirements of the law.—State ex rel. McNary, Dist. Atty., v. Olcott, 125 P. 303.

and determine them as quickly as possible. Either party may appeal within ten days after a decision is rendered to the Supreme Court of the State. The circuit court of Marion County (wherein the capitol is located) shall have jurisdiction in cases of measures to be submitted to the State at large; in cases of municipal legislation, the circuit court of the county in which the city concerned is situated shall have jurisdiction.

After the measure is filed with the Secretary of State, he shall forthwith send a copy of the same to the Attorney General. Within ten days thereafter, the Attorney General shall prepare and return to the Secretary of State a ballot title for such measure.

The ballot title shall contain:

(1) The name or names of the person or persons, organization, or organizations under whose authority the measure was initiated.

(2) A distinctive short title in not exceeding 10 words by which the measure is commonly referred to or spoken of by the public or press, and,

(3) A general title, expressing in not more than 100 words, the purpose of the measure.

The ballot title shall be printed with the numbers of the measure on the official ballot. In making such title, the Attorney General shall, to the best of his ability, give a true and impartial statement of the purpose of the measure, avoiding argument and the use of language which might tend to create prejudice for or against the measure. Any person who may be dissatisfied with the title as drawn by the Attorney General may, within ten days after said title is filed, petition the circuit court for a different title. The court shall hear argument on the petition, examine the measure and certify a title to the Secretary of State. The decision of the circuit court shall be final, and the title thus certified by the court shall be printed on the official ballot.

The Secretary of State shall furnish the various county clerks throughout the State a list of the ballot titles and numbers of the several measures to be voted upon and they shall be printed on the ballot in the order in which they were received and filed. The titles shall be numbered; the first affirmative number being 300, and the first negative number 301. All initiative measures shall be designated by the heading "Proposed by Initiative Petition."

Not later than the 90th day before any regular election, nor later than 30 days before any special election, the Secretary of State shall cause to be printed in pamphlet form a true copy of the title and text of each measure to be submitted, with the number and form in which the ballot title will be printed on the official ballot. The person, committee or organization filing an initiative petition may file with the Secretary of State, for printing and distribution, an argument in favor of the measure. This argument must be filed not later than the 115th day before a regular election, and not later than 60 days before a special election. Any person, committee or organization may file an argument opposing an initiative measure not later than the 105th day before a regular election. The title, numbers and texts of all measures proposed are bound in pamphlet form and sent to every voter of the State not later than the 55th day before a regular election, and not less than 20 days before a special election. The title page of each argument shall show what measure it favors or opposes and by what person or persons it is issued. Those filing arguments must pay for the printing of the argument at usual rates and also for the paper actually used in printing. The printing and binding of the pamphlet and the expenses of transmissal through the mails is borne by the State.

Votes on proposed measures are counted and canvassed as are the votes for candidates for office. No measure shall be adopted

unless it shall receive an affirmative majority of the total number of respective votes cast on such measure. If two or more conflicting laws shall be approved by the people at the same election, the law receiving the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict, even though such law may not have received the greatest majority of affirmative votes. Within 30 days after election, and sooner if the returns are in, it shall be the duty of the Secretary of State in presence of the Governor to proceed to canvass the votes given for each measure; and the Governor shall forthwith issue his proclamation giving the whole number of votes cast in the State for and against each measure, and declaring such measures as are approved by a majority of those voting thereon to be in full force and effect as the law of the State of Oregon from the date of said proclamation. If conflicting measures are approved at the election, the Governor shall also proclaim which of the conflicting measures is paramount.

Referring an Act of the Legislature.—An act of the legislature may be referred to a vote of the people by the legislative assembly itself or by petition similar in form to the initiative petition. The referendum petition may be directed against an entire act or a part or parts thereof. Five per cent of the legal voters, based on the whole number of votes cast for Justice of the Supreme Court at the regular election preceding the filing of the petition, is the number of signers required on a referendum petition. This number is at present 6312. Referendum petitions shall be attached to a full and correct copy of the measure on which the referendum is demanded. Referendum petitions shall be filed with the Secretary of State not later than 90 days after the final adjournment of the session of the legislative assembly which passed the bill on which the referendum is demanded. Thereafter the procedure on referendum and initiative measures is the same. Any measure referred to the

people shall take effect and become a law when it is approved by a majority of the votes cast thereon.

Legislative acts which relate to a district or county may be referred to the people of such district or county for their approval or rejection in the same manner as general laws are referred to the people of the entire State. When the law relates to a single county the duties required of the Governor, Secretary of State and Attorney General, as to State legislation, shall be performed by the County Judge, District Attorney and County Clerk respectively. If the law affects a district larger than a single county, it shall be referred as are general laws. Only legal voters in such district or county may sign referendum petitions, and the number of signers shall be based on the vote cast in said district or county for Supreme Judge at the preceding election.

Procedure in Cities and Towns.—The Act of February 25, 1907, *supra*, provides a procedure for the use of the initiative and referendum in all cities in the State, which have not made or do not make conflicting provisions. The method of exercising these powers is intended to be, as nearly as practicable, the same as that prescribed for their use in the State at large. The duties required of the State officials as to State legislation, shall be performed by the mayor, city attorney and clerk, auditor or recorder, as the case may be.

The expense of printing, binding and distribution of the pamphlets containing the measures and arguments shall be paid by the city. The pamphlets shall be sent to every voter in the city, so far as possible, not later than eight days before the election at which the measures are to be voted upon. Arguments supporting municipal measures shall be filed with the city clerk or corresponding official, not less than 30 days before election; opposing arguments shall be filed not less than 20 days before election.

An initiative petition in a city or town shall be signed by not less than 15 per cent of the legal voters therein. The form of petition is the same as that prescribed for the initiation of a State law. If an ordinance, charter, or amendment to the charter of a city shall be proposed by initiative, the petition shall be filed with the city clerk. He shall transmit it to the next session of the city council. Within 30 days, the council shall either ordain or reject the proposed measure. If the council shall reject the proposed measure or shall take no action in the matter, the clerk shall submit the same to the voters of the municipality at the next ensuing election held within the city or town not less than 90 days after the same was first presented to the council. The council may ordain the ordinance or amendment and then refer it to the people; or the council may ordain such ordinance without referring it to the people. If the council shall ordain the ordinance, without referring it to the people, the measure shall be subject to the referendum. The council, after rejecting the proposed measure or after refusing to act thereon, may ordain a competing ordinance or amendment, and this measure and the proposed initiative measure shall be submitted at the same election. This competing ordinance or amendment must be prepared and ordained by the council within the 30 days allowed it to act on the initiative petition. The mayor has no power to veto either of such measures.

If conflicting ordinances or charter amendments are submitted and adopted by the people at the same election, the measure which receives the greatest number of affirmative votes shall be paramount in all particulars as to which there is a conflict.

Amendments to a city charter may be proposed and submitted to the people by the council, with or without an initiative petition, but the same shall be filed with the city clerk for submission not less than 60 days before the election at which they are to be voted upon, and no amendment to a city charter shall be

effective until it is approved by a majority of the votes cast thereon by the people of the city or town to which it applies.

The city council may by ordinance order special elections for the purpose of voting on municipal measures.

Referendum petitions against an ordinance, franchise, or resolution passed by a city council shall be signed by not less than 10 per cent of the voters of the city, and the signatures shall be regularly verified. The referendum petition shall be filed with the clerk within 30 days after the passage of the ordinance, franchise or resolution against which it is directed. A municipal measure shall not become effective and operative until 30 days after final passage, unless it be an emergency measure. To make an emergency measure immediately operative, the reason for the emergency must be stated in a separate paragraph and the measure must receive the affirmative votes of three-fourths of all members elected to the council, taken by ayes and noes, and must also be approved by the mayor.

Penalties.—Any person signing any name other than his own to any petition, or knowingly signing his name more than once for the same measure at one election, or who is not at the time of signing the same a legal voter of the State of Oregon; or any person or officer wilfully violating any of the provisions of the act carrying into effect the initiative and referendum powers, shall, on conviction thereof, be punished by a fine not exceeding $500, or by imprisonment in the penitentiary not exceeding two years, or by both such fine and imprisonment, in the discretion of the court before which such conviction shall be had.

CHAPTER II.

INITIATIVE AND REFERENDUM IN THE COURTS.

General Interpretation.—Whether or not an amendment to a constitution was legally adopted is a judicial question to be answered in the courts. There is no question but that all the forms prescribed by the Constitution were strictly and accurately observed in the proposal of the initiative and referendum amendment, and that it was properly submitted to the electors and ratified by them. The amendment is not void because in conflict with the Constitution of the United States, Article IV, Section 4, guaranteeing to every State a republican form of government. It does not abolish or destroy the republican form of government, or substitute another in its place. The representative character of the government still remains. The people have simply reserved to themselves a larger share of legislative power, but they have not overthrown the republican form of government, or substituted another in its place. The government is still divided into legislative, executive, and judicial departments, the duties of which are discharged by representatives selected by the people. Under the amendment, it is true, the people may exercise a legislative power, and may, in effect, veto or defeat bills passed and approved by the legislature and the Governor; but the legislative and executive departments are not destroyed, nor are their powers or authority materially curtailed. Laws proposed and enacted by the people under the initiative clause of the amendment are subject to the same constitutional limitations as are other statutes, and may be amended or repealed by the legislature at will.[1] The addition of this

1 Kadderly v. Portland, 44 Or. 118.
Oregon v. Pacific States Tel. & Tel. Co., 53 Or. 162.

amendment to the organic laws necessarily carried with it all powers essential to make its provisions effective, and any part of the Constitution in force, so far as in conflict or inconsistent therewith, was by its adoption necessarily repealed.[1]

All of these amendments, so far as they refer to the same subject-matter, should be read together, and be so interpreted as to carry out the purpose of the people in adopting them, regardless of the technical construction of some of the language used. By the amendment of 1902 the initiative and referendum powers were created and defined, and made applicable to general legislation. By the amendment known as Section 1a, these powers were further enlarged and extended to the legal voters of every municipality and district as to all local, special, and municipal legislation, and by the amendment of Section 2, Article XI, the legislature was prohibited from creating corporations by special law, and from enacting, amending, or repealing any charter or act of incorporation then in existence. The power, therefore, to enact or amend municipal charters no longer resides in the legislature, but is to be exercised only by the people. And unless the power to amend acts incorporating municipalities, other than cities and towns, is thus reserved to or vested in the people, they can not be changed, amended, or modified until the adoption of some constitutional amendment covering the subject. The court should not reach such a conclusion unless it is compelled to do so by the language of the several amendments, nor can the court believe that such was the intention of the people in adopting these amendments, although a strict construction of the language used in one or more of them might lead to that result. The manifest purpose, so far as it concerns the question under consideration of the court, was to take from the legislature and vest in the people the power to amend municipal charters and acts gov-

1 State v. Langworthy, 55 Or. 303.

erning and defining the powers and duties of all municipal corporations.[1]

By the adoption of the initiative and referendum into the Constitution, the legislative department of the State is divided into two separate and distinct law making bodies. There remains, however, as formerly, but one legislative department of the State. It operates, it is true, differently than before—one method by the enactment of laws directly, through the source of all legislative power, the people; and the other, as formerly, by their representatives—but the change thus wrought neither gives to nor takes from the legislative assembly the power to enact or repeal any law, except in such manner and to such extent as may therein be expressly stated. Nor does the court understand that it was ever intended that it should be so. The powers thus reserved to the people merely took from the legislature the exclusive right to enact laws, at the same time leaving it a co-ordinate legislative body with them. This dual system of making and unmaking laws has become the settled policy of the State, and so recognized by decisions on the subject.

True, the language used in the amendments considered would appear to give to incorporated cities the exclusive control and management of their own affairs, even to the extent, if desired, of legislating within their borders without limit, to the exclusion of the State. But, as stated, these provisions must be construed in connection with others of the fundamental laws, which can but lead to the conclusion above announced; and whatever may be the literal import of the amendments, it can not be held that the State has surrendered its sovereignty to the municipalities to the extent that it must be deemed to have perpetually lost control over them. This no State can do. The logical sequence of a judicial interpretation to such effect would amount to a recognition of a State's independent right of dissolution. It

1 Farrell v. Port of Portland, 52 Or. 582.

would but lead to sovereigntial suicide. It would result in the creation of States within the State, and eventually in the surrender of all State sovereignty—all of which is expressly inhibited by Article IV, Section 3 of the Constitution of the United States. Power to enact local legislation may be delegated, but this of necessity, whether stated or not, is always limited to matters consonant with, and germane to, the general purpose and object of the municipalities to which such prerogatives may be granted. Municipalities are but mere departments or agencies of the State, charged with the performance of duties for and on its behalf, and subject always to its control. The State, therefore, regardless of any declaration in its Constitution to the contrary, may at any time revise, amend, or even repeal any or all of the charters within it, subject, of course, to vested rights and limitations otherwise provided by the fundamental laws. This, under the Constitution as it now stands, may be done by the legislature through general laws only, and the same authority may be invoked by the people through the initiative by either general or special enactments; only the legislature being inhibited from adopting the latter method.[1]

The people of the State of Oregon, by constitutional amendment, have seen fit to confer upon municipal corporations the right to enact their charters; the only limitation on that right being that such charters shall not conflict with the Constitution or the criminal laws of the State. Therefore, within the limits of the municipality, and for those purposes which are purely municipal, a city may include in its charter by amendment any provision or right that the legislature might have granted before the Constitution was so amended.[2]

These constitutional provisions (Section 2, Article XI, and Section 1a, Article IV, Constitution) confer ample and exclusive

1 Straw v. Harris, 54 Or. 424.
2 Kiernan v. Portland, 57 Or. 454.

power upon the people of every municipal corporation to regulate their own affairs respecting municipal legislation and procedure. The legislative assembly can not pass laws to repeal or amend municipal charters, even by implication, respecting such matters. On these subjects the city charter under consideration is complete within itself, and subject only to the Constitution and the criminal laws of the State. The charter does not provide for the appeal of any cause like the one under consideration beyond the circuit court, and hence the appeal should be dismissed.

In reaching this conclusion, the court is not unmindful of the doctrine in Straw v. Harris, 54 Or. 424, which holds in effect, that the State may not surrender its sovereignty to municipalities to the extent that it must be deemed to have perpetually lost control of them; but no question of State supremacy over its subordinate municipalities is involved in the case under consideration. The matters in dispute relate purely to the city's internal affairs over which it has supreme control by virtue of the constitutional amendments above quoted.[1]

Constitutionality.—The initiative and referendum amendment was regularly adopted and it is not in conflict with Section 4, Article IV of the Constitution of the United States guaranteeing to every State a republican form of government.[2] Whether the adoption of provisions of the initiative and referendum in the Constitution of a State, such as those adopted in Oregon in 1902, so alters the form of government of the State as to make it no longer republican within the meaning of Section 4, Article IV of the Constitution of the United States is a purely political

1 City of Portland v. Nottingham, 58 Or. 1.
2 Kadderly v. Portland, 44 Or. 118.
Oregon v. Pacific States Tel. & Tel. Co., 53 Or. 162.
Kiernan v. Portland, 57 Or. 454.

question over which the Supreme Court of the United States has no jurisdiction. It is for Congress to determine.[1]

Veto Power of Governor.—The veto power of the Governor is not abridged in any way, except as to such laws as the legislature may refer to the people. The provision of the amendment that "the veto power of the Governor shall not extend to measures referred to the people" must necessarily be confined to the measures which the legislature may refer, and can not apply to acts upon which the referendum may be invoked by petition.[2] The amendment of Section 1, Article IV of the Constitution does not direct that a proposed law, when enacted by the people, pursuant to an exercise of the initiative power reserved, shall, before it becomes operative, be presented to the Governor; and hence the chief executive of the State of Oregon is powerless either to approve or repudiate a measure passed in the manner indicated.[3]

Emergency.—The Constitution of Oregon, Article IV, Section 28,[4] giving the legislative assembly power to put any law into force upon approval by declaring an emergency, has been modified by the initiative and referendum amendment, so as to exclude from the power to declare an emergency all laws except those necessary for the immediate preservation of the public

1 Pacific States Telephone and Telegraph Company v. Oregon, 223 U. S. 118. The same ruling was made in the U. S. Sup. Ct. in reference to Sec. 1a, Art. IV, Const. Or., and the amendment to Sec. 2, Art. XI, Const. Or., in Kiernan v. Portland, 223 U. S. 151.

2 Kadderly v. Portland, 44 Or. 118.

3 State v. Kline, 50 Or. 426.

Oregon v. Pacific States Tel. & Tel. Co., 53 Or. 162. In this case the court said: "What is said on the subject in Kadderly v. Portland *(supra)*, was in answer to the point that the initiative and referendum deprived the Governor of a veto power over acts of the legislature and had no reference to measures proposed by the initiative."

4 Sec. 28, Art. IV, Const. of Oregon, is as follows: "No act shall take effect until ninety days from the end of the session at which the same shall have been passed, except in case of emergency; which emergency shall be declared in the preamble or in the body of the law."

peace, health, or safety. So far, all are agreed. But the vital question is, What tribunal is to determine whether a law does or does not fall under this classification? Are the judgment and findings of the legislative assembly conclusive, or are they subject to review by the courts? The inquiry is much simplified by bearing in mind that the exception in the constitutional amendment is not confined to such laws as the legislative assembly may legally enact by virtue of the police powers of the State, or to those alone that may affect the public peace, health, or safety. The police power is limited to the imposition of restraints and burdens on persons and property, in order to secure the general comfort, health, and prosperity of the State: Tiedeman, Lim. Pol. Power, Sec. 1. But the language of the constitutional amendment is broader, and includes all laws, of whatsoever kind, necessary for the immediate preservation of the public peace, health, or safety, whether they impose restraints on persons and property, or come strictly within the police powers, or not. The laws excepted from the operation of the amendment do not depend alone upon their character, but upon the necessity for their enactment in order to accomplish certain purposes. As to such laws, the initiative and referendum amendment does not in any way abridge or restrict the power of the legislature, which, by the insertion of a proper emergency clause, may unquestionably cause them to go into effect upon approval by the Governor. As the legislature may exercise this power when a measure is in fact necessary for the purposes stated, and as the amendment does not declare what shall be deemed laws of the character indicated, who is to decide whether a specific act may or may not be necessary for the purpose? The amendment excepts such laws as may be necessary for a certain purpose. The existence of such necessity is therefore a question of fact, and the authority to determine such fact must rest somewhere. The Constitution does not confer it upon any tribunal. It must there-

fore necessarily reside with that department of the government which is called upon to exercise the power. It is a question of which the legislature alone must be the judge, and when it decides the fact to exist, its action is final.[1] The initiative and referendum makes its own exceptions, and, if those conflict with Section 28 of Article IV, *supra*, they will constitute a limitation upon it to that extent.[2] The legislature has the exclusive power to declare that its enactments are necessary for the immediate preservation of the public peace, health, or safety, and that hence an emergency exists on account of which an act shall take effect when the legislative process, as applied to the act in question, is fully completed.[3]

Title of Measure.—In laws proposed by initiative petitions pursuant to an amendment of the Constitution, it would seem that the method frequently adopted by members of the legislature of securing votes for the passage of a bill by promises of reciprocal support of other measures could not be pursued, and hence one of the reasons assigned for requiring every bill introduced in the legislative assembly to comply with the requirement of Section 20, Article IV, of the organic law of the State,[4] so that it may stand on its own merits, the purpose of which, to be valid, mut be fairly disclosed in the title, would have no application to the consideration of an act which resulted from a vote of the people. The validity of laws adopted at the polls must be determined like enactments by the legislative assembly,

1 Kadderly v. Portland, 44 Or. 118.

2 Sears v. Multnomah County, 49 Or. 42.

3 Bennett Trust Co. v. Sengstacken, 58 Or. 333.

4 Sec. 20, Art. IV, Const. Or., is as follows: "Every act shall embrace but one subject, and matters properly connected therewith, which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title."

by the test of the Constitution as modified by the amendment thereto. Though the argument that a proposed measure must depend upon its own merits may not apply to acts initiated by petitions, a valid reason for requiring that the subject matter of laws to be adopted or rejected at the polls should be stated in the title nevertheless exists. The majority of qualified electors are so much interested in managing their own affairs that they have no time carefully to consider measures affecting the general public. A great number of voters undoubtedly have a superficial knowledge of proposed laws to be voted upon, which is derived from newspaper comments or from conversation with their associates. The assertion may safely be ventured that it is only the few persons who earnestly favor or zealously oppose the passage of a proposed law initiated by petition who have attentively studied its contents and know how it will probably affect their private interests. The greater number of voters do not possess this information and usually derive their knowledge of the contents of a proposed law from an inspection of the title thereof, which is sometimes secured only from the very meager details afforded by a ballot which is examined in an election booth preparatory to exercising the right of suffrage. It is important, therefore, that the title to laws proposed in the manner indicated should strictly comply with the constitutional requirement.[1]

Article IV, Section 20 of the Constitution, *supra,* was intended to apply to acts introduced before the legislative assembly. To that extent it is still in force, and is unaffected by the initiative and referendum amendment, but under no rule of construction can it be held applicable to laws enacted directly by the people, except to the extent that it may not be inconsistent

1 State ex rel. v. Richardson, 48 Or. 309.

with the general object and purpose of the initiative and referendum amendment.[1]

Meaning of Words.—The qualifying words "local" and "special" as used in Section 1a, Article IV, Constitution, are synonymous, and, in the sense in which they are used, mean any enactment that is plainly intended to affect a particular person or thing or to be in effect in some specified locality only.[2] The words "municipality" and "district" as used in the same clause of the amendment adverted to are evidently expressions of equivalent import, for a district legally created from a designated part of the State and organized to promote the convenience of the public at large, is a municipal corporation.[3] The term "district," however, has a broader signification than "county," and may designate a territory comprising more than a county, or containing less area.[4]

Section 2, Article XI, as first adopted, so far as applicable to the subject under consideration, reads: "Corporations may be formed under general laws, but shall not be created by special laws, except for municipal purposes." This provision was amended June 4, 1906, to read as follows: "Corporations may be formed under general laws, but shall not be created by the legislative assembly by special laws . . ." It is apparent from the language used in the section as first in force, when viewed in the light of the reference to "other municipal corporations" in Section 9 of the same article that the word "corporations" was employed in its broadest sense, including therein public, municipal, and private corporations.[5]

1 State v. Langworthy, 55 Or. 303.
2 Acme Dairy Co. v. Astoria, 49 Or. 520.
Schubel v. Olcott, 60 Or. 503.
State ex rel. v. Port of Tillamook, 62 Or. 332.
3 Acme Dairy Co. v. Astoria, *supra.*
4 Schubel v. Olcott, *supra.*
5 Straw v. Harris, 54 Or. 424.

Self-Executing.—In construing a provision of a written constitution, the primary inquiry is to ascertain the intent of the framers and of the people who adopted the clause under consideration, to determine which, effect should be given to all the words used, disregarding technical rules and adopting a mean between a strict and a liberal construction. A section of the fundamental law is self-executing when it prescribes a rule, the application of which puts into operation the constitutional provision. Viewed in this light, that portion of Section 1a, Article IV of the Constitution expressly authorizing cities and towns to provide for the manner of exercising the initiative and referendum powers as to their municipal legislation is self-executing;[1] the remainder of the amendment is not self-executing for the reason that it only declares or reserves the right, without laying down rules by means of which this right may be given the force of law.[2]

It is plainly expressed in Section 1, Article IV of the Constitution that its reserved rights are to be independent of the legislature, and is sufficiently specific that it may be carried out without legislative aid; and in the last clause it provides that the Secretary of State, in submitting to the people the matter referred, shall be governed by the general laws until further provision is made by the legislature, thus not only contemplating that such legislation is not necessary as to procuring and presenting the petition, but also forestalling any possibility of defeat, by inaction of the legislature in regard to the manner of its submission to the people. If it were not self-executing, though it were mandatory upon the legislature to make pro-

1 Acme Dairy Co. v. Astoria, 49 Or. 520.
McBee v. Town of Springfield, 58 Or. 459.
2 Long v. City of Portland, 53 Or. 92.
State ex rel. v. Portland Ry. L. & P. Co., 56 Or. 32.

vision to carry it into effect, there is no power to compel it to do so. Thus a strong reason appears why it was intended to be self-executing, and it should be so considered.[1]

The amendment to Section 2, Article XI, Constitution, empowering the legal voters of every city and town to enact and amend their municipal charter, subject to the Constitution and criminal laws of the State, is not self-executing.[2]

Municipal Legislation.—The amendment to Section 2, Article XI, and Section 1a, Article IV, Constitution, having been adopted at the same time, the parts of their provisions that relate to the same subject-matter ought to be construed together, and, so considering them, the court believes it was the intention of the framers of Section 1a, Article IV, and also of the people who ratified it, to vest an incorporated city or town with authority to provide the manner of exercising the initiative and referendum powers as to amendments of a charter, which change is reasonably within the generic term of "municipal legislation."[3] So far as Section 1a, Article IV affects or applies to a city charter, its provisions may be considered as read into the charter. It amounts to an amendment of it, subject only to such provision of law as shall make it available, and is sufficient authority for any State or city legislation necessary to give it effect, regardless of other provisions contained in the charter.[4]

The provision of a city ordinance, restricting signers on initiative petitions to "registered voters" is unauthorized inasmuch as Section 1a, Article IV, Constitution, confers this privilege

1 Stevens v. Benson, 50 Or. 269.
State v. Langworthy, 55 Or. 303.
2 Kiernan v. Portland, 57 Or. 454.
3 Acme Dairy Co. v. Astoria, 49 Or. 520.
4 Long v. City of Portland, 53 Or. 92.

on "legal voters," and an unregistered voter may become a legal voter by producing the proof required by law.[1]

When an initiative petition is presented to the city auditor, having thereon the requisite number of names, subscribed to the statement that each has personally signed the petition, that he is a legal voter of the city, and that his residence and street number are correctly written after his name, and verified as required by the ordinance, a *prima facie* case is made, entitling the measure proposed to be entered by a proper title upon the official ballots, and imposing upon the auditor the burden of showing any fraud attempted to be perpetrated.[2]

A city charter granting to the people of the municipality a general right of initiative and a limited right of referendum as to franchise ordinances was enacted by the legislature January 23, 1903. It provided that the number of names required on a referendum petition against an ordinance granting a franchise should be a number equal to 15 per cent of the votes cast at the preceding election; and that said petition should be filed within 15 days after passage of the ordinance over the mayor's veto. These provisions are not affected by Section 1a, Article IV, Constitution, or by the act of February 25, 1907, providing a procedure for using the initiative and referendum.[3]

A city charter enacted by the legislature January 23, 1903, provided for an appeal from city assessments to the circuit court, and that the jury's verdict in that court should be final. At the time of the adoption of the charter there was no appeal from orders granting new trials; this right was given by the legislature in 1907. Inasmuch as the legislature, Section 1a, Article IV, and the amendment to Section 2, Article XI, Constitution, can neither amend nor repeal municipal charters, the

1 Woodward v. Barbur, 59 Or. 70.
2 Woodward v. Barbur, 59 Or. 70.
3 State ex rel. v. Portland Ry. L. & P. Co., 56 Or. 32.

charter provision is absolute and no appeal will lie from the order of the circuit court granting a new trial.[1]

Inasmuch as the provision in Section 1a, Article IV, Constitution, authorizing cities and towns to provide the manner of exercising the initiative and referendum powers in municipal legislation, except as to the number of legal voters required as petitioners therefor, is self-executing, no enabling act was required to put into operation this provision of the fundamental law, and such being the case the general law requiring cities and towns to provide by ordinance or charter the manner of exercising such powers is advisory only, and does not prohibit the adoption of any other reasonable manner of exercising the powers reserved.[2]

Municipal corporations are always subject to the control and regulation of the law-makers of the State. Only those powers incident and germane to the municipal government may be deemed to be delegated or reserved. While these public corporations are capable of adopting and amending their charter, they still continue to be agencies of the State. A general control is left in the legislative assembly. At the same time the people retain, under the initiative and referendum, full power over them.[3]

Pursuant to the powers reserved in Section 1a, Article IV, Constitution, a city passed an ordinance providing a procedure for amending its charter by initiative petition. One of the provisions of this ordinance required the auditor and police judge to cause to be printed a pamphlet containing a true copy of the title and text of a proposed amendment and that a copy be furnished to any person offering to register. In a proceeding to amend the charter the pamphlet misstated the name of

1 City of Portland v. Nottingham, 58 Or. 1.
2 McBee v. Town of Springfield, 58 Or. 459.
3 State ex rel. v. Port of Tillamook, 62 Or. 332.

a member of a board of commissioners provided for in the initiative amendment to the charter. This mistake is fatal to the proposed amendment.[1]

Cities and towns are authorized under the amendment to Section 2, Article XI, Constitution, to enact and amend charters affecting property and other rights within their boundaries. The authority to legislate beyond their limits is not granted by the amendment.[2]

Restricting the Legislature.—Under the amendment to Section 2, Article XI, Constitution, no restriction is placed upon the legislature with respect to the enactment of general laws; the exception being that no special laws creating or affecting the municipalities shall be enacted by the legislature. Under all the rules of construction, the exception reserves to the legislative department the right, whether by the people directly through the initiative, or indirectly through the legislature, to enact general laws on the subject. The sentence in the amendment that "The legislative assembly shall not enact, amend, or repeal any charter, or act of incorporation for any municipality, city or town" clearly has reference to special laws.[3]

Constitutional Amendment—Construction.—The general rule is that a liberal construction should be given to legislative enactments because they are often hastily drawn by persons unskilled in the use of technical legal expressions, are frequently conflicting, and sometimes trench upon clauses of the organic law. A strict construction, however, is usually applied to provisions of a constitution, on the ground that great care has been exercised by experienced persons in framing them. As a majority vote of the qualified electors by an exercise of the initiative power can

1 Palmberg et al. v. Kinney et al., 127 Pac. 32.
2 Thurber v. Henderson et al., 128 Pac. 43.
3 Kiernan v. Portland, 57 Or. 454.

enact a statute, they can, by giving such law an appropriate article and section and entitling it an amendment of the constitution, make it a part of the fundamental law and render the supposed stability of the organic act subject to sudden and serious changes. It may well be doubted, therefore, if any alteration in the constitution that has been inaugurated by the initiative should be strictly interpreted.[1]

Petitions.—Participation in the initiative of measures to be submitted to voters for their approval or repudiation is not an election wherein any choice is required to be made, but an initiative petition affords evidence of a desire on the part of a few persons that the expediency of a proposed law may be determined at the polls pursuant to notice thereof. No great prerogative of the people is violated by the organic act in prescribing a small percentage of legal voters as sufficient to inaugurate a proposed law. The inception of enactments having been delegated by the fundamental law to legal voters, the authority thus conferred is so closely allied to an election, however, that the privilege of signing an initiative petition can not be abridged by any legislation that would amount to a deprivation of the right.[2]

The signing and filing of a petition is not a legislative act, but a matter preliminary to a legislative act. The courts, therefore, have jurisdiction to investigate its sufficiency.[3]

1 State v. Schluer, 59 Or. 18.
2 Woodward v. Barbur, 59 Or. 70.
3 State ex rel. v. Olcott, 62 Or. 277.

CHAPTER III.

INITIATIVE AND REFERENDUM IN PRACTICE.

Preparing Measures.—The people, as a whole, do not prepare initiative measures; neither do they prepare petitions to have an act of the legislative assembly referred. This work is done by a small group of individuals who work through a "league" or "association." It is now quite the common practice to have all proposed legislation prepared and promoted by an association of individuals. This practice came into vogue before the initiative and referendum, direct primary law, and the recall were enacted into law, and has continued ever since.

The men responsible for most of the popular legislation which might be called "progressive," at any rate "distinctive" and "reformatory," have labored through leagues which served the purpose for the time or until their object was accomplished. The initiative and referendum was first promoted by joint representatives from the Farmers' Alliance, State Grange, Federated Trades Council of Portland, and the Oregon Knights of Labor. These organizations, acting in conjunction, continued to work for the amendment from 1892 until 1898. The leading members of these various bodies formed the Oregon Direct Legislation League and conducted the campaign for the initiative and referendum until it was adopted by the people at the election in June, 1902. The next matter of importance to engage the attention of those who were essentially reformers, was the primary nominating law. The Direct Primary and Nominating Law League was formed in 1902, and continued until the adoption of the Direct Primary Law in 1904. Succeeding this league, the People's Power League of Oregon was organized in 1905, and continues to date. These leagues are voluntary organizations

and have no authorization from the people generally. Probably the largest number of paid members on the roll of any one of them never exceeded one hundred and thirty-five. While the personnel of these various bodies changed, the active reform work was done by the same small number of individuals working through the various named leagues. These leagues might be termed the reform force which has been active in the State of Oregon for the past twenty years, and from them have come the initiative and referendum, direct primary law, the recall, and other important laws which have changed the fundamentals of the State's government.

Following the example set by these reform organizations nearly all popular legislation is now proposed under some league or association name. An individual does not propose legislation, though he may if he so desires.

The people sit as a jury on legislation. They do not know the authors of the proposed laws which they are called upon to consider and vote upon at the polls. They have before them the name of the league only, and perhaps may know some of the individuals who compose it.

The names selected by these leagues may or may not bespeak their purpose. The Oregon Anti-Saloon League, The Oregon State Equal Suffrage Association are examples of organizations whose names show at a glance the nature of the work they are carrying on. When the method of popular enactment of laws was first put upon the statute books, the people paid a good deal of attention to the name of the organization behind a measure. A proposed act was good or bad in proportion to the confidence inspired by the body promoting it. Gradually, however, the people lost a great deal of reverence for the mere name, and now act more independently. They seek to discover merit or demerit in a measure and each elector votes as his best judgment dictates.

Circulating Petitions.—Shortly after the initiative and referendum amendment was adopted, several attempts were made to inaugurate legislation by securing the services of volunteers to circulate petitions for signatures. This proved to be a failure in the State at large. In smaller units, a county or city, when the question sought to be placed on the ballot is generally and enthusiastically discussed and a great deal of interest is aroused, signatures may be obtained by volunteers. The work is best done by paid circulators. Professional circulators of petitions charge from three to five cents for each name secured. These men usually carry more than one proposed measure and the individuals accosted by them are requested to sign their names once, twice or thrice as the case may be. These men follow the lines of least resistance and secure the names with as little effort as possible. The population is more easily canvassed in cities, and it is here that most of the names are secured. The electors residing in the cities are responsible, in the main, for the initiation and referring of measures. The professional circulators' work has been reviewed several times by the courts of the State of Oregon. In one case, it was shown that 3778 names on a petition, containing 13,715 signatures, were fraudulent. In this work, as in any other, fraud and deceit may be practiced, but such cases are the exceptions rather than the rule. It is to be expected that some signatures obtained to a petition numbering 6000 or more names will be fictitious. Some people have earnestly urged legislation to prevent the circulators of petitions from accepting pay for their services. Were such a law passed, it would not help matters in the least. It would but put a premium on dishonesty. The circulator could be paid by his patron, who remains under cover, and no proof could be obtained to secure his conviction.

The circulator is, in many instances, the first man to acquaint those whom he requests to sign his petition with the fact that new laws are being initiated. The law requires that a copy of the

proposed measure be attached to the petitions. Those requested to sign, as a rule, know nothing about the measure, but take the few sentences of description from the circulator at their face value and sign the petitions, without asking to read the proposed measure. It frequently happens that men who sign in this manner, learn afterwards that they have, by their signatures, helped to place upon the ballot a measure embodying a principle which they have always opposed. Here is one of the slight defects which must be remedied in the direct law making scheme. If the individual could be taught to sign no initiative petition unless he felt reasonably sure he could support the measure at the polls; and be taught to sign no referendum petition unless he felt reasonably certain that he would vote "no" at the polls; fewer measures without merit would find their places on the ballot. When paid circulators are abroad with petitions for signatures, all electors should remember the injunction so often met at railway crossings, "Stop, Look and Listen." A citizen of the State of Oregon is certainly neglectful of his duty every time he places his name on a petition asking that a measure be initiated or referred without knowing the provisions of the measure attached.

The Pamphlet.—Every voter in the State receives nearly two months before a general election a pamphlet prepared by the Secretary of State containing a copy of all measures to be voted upon together with such arguments for and against them, which shall have been filed in his office. Owing to the large number of measures usually submitted to the electors, this pamphlet has grown from a few pages to a good sized book. The pamphlet sent out by the Secretary of State for the general election held in November, 1912, contained 256 pages. Any one who desired to acquaint himself with its entire contents had to read seven pages per day from the time the pamphlet reached him until election day. As a matter of fact, but a small percentage of the

people read the pamphlet for information. It is occasionally referred to if an argument or dispute arises over particular provisions of a proposed measure. The people generally depend upon the press, campaign literature and discussion among themselves for the information they desire. The pamphlet is read in country precincts more generally than it is in cities. As a rule, the people residing out of town have more time at their disposal for this purpose and are better informed upon the measures on the ballot. The theory of furnishing every voter in the State with a copy of all proposed measures upon which he is to vote is correct, but the actual results obtained are not entirely satisfactory. Already the friends of the initiative and referendum have noted, with misgivings, the increase of the number of measures voted upon, and they realize that, with the increase of new legislation, by the initiative, the pamphlet will become too large to serve its purpose. To be useful, the pamphlet should be short, and its reading encouraged as a patriotic duty. No man should be permitted to vote on election day unless he can truthfully say that he has read the proposed measure upon which he is to cast a ballot. Ignorance in a few may be condoned; want of knowledge in the majority is a menace under the system.

Campaigning.—When a bill is under discussion in a legislative assembly, very often a lobby influence determines the votes of many of the members. The legislative assembly is a small body and every member is brought into contact with influences for or against certain measures. This is not true when laws are proposed and enacted by the people themselves. Those who carry on the fight for the enactment of a law are usually a small number of individuals who either from patriotism or selfish motives are directly interested in the measures. Ranged against this group is another which opposes the measure either through patriotism or more often for selfish reasons. Around these two groups the

campaign rages, and it is carried on from these small units to the people generally.

It sometimes happens that a quiet campaign of education is conducted for years in the press and by pamphlet for a principle which is new and untried before a measure embodying it is submitted for popular approval. Several of the more important changes in the laws of the State of Oregon have been preached for years before their submission to a plebiscite. In this campaign of education there is little opposition encountered. Occasionally a newspaper will take up the cudgels and fight the principle, but so long as the measure is not up for adoption there is no organized opposition.

The real campaign begins when the proposed measure has been filed with the Secretary of State. The opponents of a measure, if they deem it advisable, endeavor to see that a ballot title is secured which will not be misleading. The preliminaries settled, both the proponents and opponents of a measure start their campaign by furnishing the arguments to be incorporated in the pamphlet which is prepared by the Secretary of State and sent to every voter. In preparing this argument, those for and against the measure in controversy usually sign the same as a league or organization. The names of the more influential members are often subscribed to the argument. The purpose of this is, of course, to influence a person by parading before him a list of the names of well known and influential men and inferentially ask the voter to follow their lead. As both sides to a controversy over a proposed measure could furnish a long list of distinguished citizens of the State in favor of their respective contentions, this method of campaigning is of doubtful effectiveness. Such methods will pass with the years. The basic principle of the system is that each voter shall arrive at his own conclusion after a full study of the measure itself and cast a vote independent of, and free from, the implied dictates of others.

Circular letters, pamphlets, press articles and arguments pro and con follow in quick succession after the campaign fairly opens. When the system was young, many of the arguments sent to the voters were puerile and weak. They were in fact not arguments at all but rather an appeal to passion or prejudice. Gradually this method is losing ground and both sides appeal to the voter's reason and seek to win his support at the polls by convincing him of the merit of their contention. Ad hominem billingsgate is still indulged in to a degree. This undemocratic method will never be entirely eradicated.

Measures for raising the salaries of officials, creating new offices, and appropriating money are half defeated when proposed. The people are opposed to such measures and the argument "Higher Taxes" is hard to overcome. At the special election held November 4, 1913, there were several local measures on the ballot to increase the salaries of different officials, but the people answered by voting "No." Many of these measures were meritorious but the people hold strenuously to the belief that if a man accepts office with a fixed salary he should not receive an increase during his incumbency.

The leading daily papers of the State, just prior to election, take up and discuss in their columns the various measures to be voted upon. The papers make their own recommendations to the voters.[1] Some measures, however, they pass without comment. The rule at elections repeatedly advocated in the press is: "When in doubt on an initiative measure, vote 'No.' "; "When in doubt on a referred measure, vote 'Yes.' "

Number of Votes Cast.—The basis for the number of signatures required on initiative and referendum petitions is the total vote cast for Justice of the Supreme Court. Other candidates may have received a larger number of votes but the vote cast for a

1 For example of a newspaper's recommendation, see Appendix "A."

member of the Supreme Bench is less subject to fluctuation and more nearly represents the average vote cast for candidates for office. The measures submitted to the people and the names of the candidates for office appear upon the same ballot. The vote for proposed laws is always less than that cast for candidates. This is partly due to the fact that the proposed laws invariably follow the names of candidates upon the ballot, and inasmuch as it is long, the voter stops before he reaches the measures. A comparison of the vote for candidates and the vote for proposed measures will show the difference. The vote for Justice of the Supreme Court is compared with the highest vote cast for any proposed measure:

GENERAL ELECTION, JUNE 2, 1902.

Total vote for Justice of Supreme Court	87,719
Total vote for Initiative and Referendum Amendment to the Constitution	67,692
Difference	20,027

GENERAL ELECTION, JUNE 6, 1904.

Total vote for Justice of Supreme Court	93,608
Highest vote for Proposed Measures	83,514
Difference	10,094

GENERAL ELECTION, JUNE 4, 1906.

Total vote for Justice of Supreme Court	93,302
Highest vote for Proposed Measures	83,977
Difference	9,325

GENERAL ELECTION, JUNE 1, 1908.

Total vote for Justice of Supreme Court	105,208
Highest vote for Proposed Measures	95,528
Difference	9,680

GENERAL ELECTION, NOVEMBER 8, 1910.

Total vote for Justice of Supreme Court	122,709
Highest vote for Proposed Measures	106,215
Difference	16,494

GENERAL ELECTION, NOVEMBER 5, 1912.

Total vote for Justice of Supreme Court	126,231
Highest vote for Proposed Measures	118,369
Difference	7,862

The legislative assembly called a special election for November 4, 1913, for the purpose of voting on referred measures. This is the first time that the ballot for a State election contained proposed measures only. Five were submitted and four of those were approved by the people. The total vote cast was 102,276. The largest vote cast for any of the five measures was 97,257.

At the 1912 election, the women of the State were enfranchised. The total number of electors entitled to vote at the special election in 1913, including the newly enfranchised women, was probably 300,000. Of this number only 102,276 voted.

Amount of Popular Legislation.—The number of proposed measures which have been submitted to the people at the six elections held in the State since the adoption of the initiative and referendum is very large. In 1904, the people were called upon to pass upon three measures at the polls; in 1912, the people passed upon thirty-seven measures at the polls. The following table shows the measures proposed and the vote cast on each at the elections held in the State since the adoption of the initiative and referendum.

GENERAL ELECTION, JUNE 2, 1902.

Constitutional amendments—	Yes.	No.
Initiative and referendum (1)	62,024	5,668

GENERAL ELECTION, JUNE 6, 1904.

Constitutional amendments—		
Office of State Printer (2)	45,334	14,031
Measures—		
Direct Primary nominating election law (2)	56,205	16,354
Local option liquor law (2)	43,316	40,198

GENERAL ELECTION, JUNE 4, 1906.

Constitutional amendments—		
Equal suffrage amendment (2)	36,902	47,075
Requiring referendum on any act calling a constitutional convention (2)	47,661	18,751
Giving cities sole powers to amend their charters (2)	52,567	19,852
Authorizing State Printer's compensation to be regulated by law at any time (2)	63,749	9,571
Initiative and referendum to apply to all local, special and municipal laws (2)	47,678	16,735
Measures—		
General appropriation bill, State institutions (3)	43,918	26,758
Amendment to local option liquor law (2)	35,297	45,144
Purchase of Barlow toll road by State (2)	31,525	44,527
Prohibiting free passes on railroads (2)	57,281	16,779
Gross earnings tax on sleeping, refrigerator and oil car companies (2)	69,635	6,441
Gross earnings tax on express, telephone and telegraph companies (2)	70,872	6,360

(1) Submitted by the Legislature.
(2) Submitted by Initiative Petition.
(3) Referendum ordered by petition of the people.

GENERAL ELECTION, JUNE 1, 1908.

Constitutional amendments—	Yes.	No.
To increase compensation of legislators from $120 to $400 per session (1)	19,691	68,892
Permitting location of State institutions at places other than the State Capital (1)	41,971	40,868
Reorganization system of courts and increasing the number of Supreme Judges from three to five (1)	30,243	50,591
Changing date of general elections from June to November (1)	65,728	18,591
Equal suffrage (2)	36,858	58,670
Giving cities control of liquor selling, pool-rooms, theaters, etc., subject to local option law (2)	39,442	52,346
Modified form of single tax amendment (2)	32,066	60,871
Recall power on public officials (2)	58,381	31,002
Authorizing proportional representation law (2)	48,868	34,128
Requiring indictment to be by grand jury (2)	43,948	36,778
Measures—		
Giving sheriffs control of county prisoners (3)	60,443	30,033
Requiring railroads to give public officials free passes (3)	28,856	59,406
Appropriating $100,000 for building armories (3)	33,507	54,848
Increasing annual appropriation for University of Oregon from $47,500 to $125,000 (3)	44,115	40,535
Fishery law proposed by fish-wheel operators (2)	46,582	40,720
Fishery law proposed by gillnet operators (2)	56,130	30,280
Instructing legislators to vote for people's choice for United States Senators (2)	69,668	21,162
Corrupt practices act governing elections (2)	54,042	31,301
Creating Hood River County (2)	43,948	26,778

(1) Submitted by the Legislature.
(2) Submitted by Initiative Petition.
(3) Referendum ordered by petition of the people.

GENERAL ELECTION, NOVEMBER 8, 1910.

	Yes.	No.
Constitutional amendments—		
Permitting female taxpayers to vote (2)	35,270	59,065
Providing separate district for election of each State Senator and Representative (1)	24,000	54,252
Repealing requirement that all taxes shall be equal and uniform (1)	37,619	40,172
Permitting organized districts to vote bonds for construction of railroads by such districts (1)	32,844	46,070
Authorizing collection of State and county taxes on separate classes of property (1)	31,629	41,692
Permitting people of each county to regulate taxation for county purposes and abolishing poll taxes (2)	44,171	42,127
Giving cities and towns exclusive power to regulate liquor traffic within their limits (2)	53,321	50,779
Prohibiting liquor traffic (2)	43,540	61,221
Permitting counties to vote bonds for permanent road improvements (2)	51,275	32,906
Extending initiative and referendum, making terms of members of legislature six years, increasing salaries, requiring proportional representation in legislature, election of President of Senate and Speaker of House outside of members, etc. (2)	37,031	44,366
Permitting three-fourths verdict in civil cases (2)	44,538	39,399
Measures—		
Establishing branch insane asylum in Eastern Oregon (1)	50,134	41,504
Calling convention to revise State Constitution (1)	23,143	59,974
Requiring Baker County to pay $1000 a year to Circuit Judge in addition to his State salary (3)	13,161	71,503

(1) Submitted by the Legislature.
(2) Submitted by Initiative Petition.
(3) Referendum ordered by petition of the people.

Measures—	Yes.	No.
Creating Nesmith County from parts of Lane and Douglas (2)	22,866	60,951
To establish a State Normal School at Monmouth (2)	50,191	40,044
Creating Otis County from parts of Harney, Malheur and Grant (2)	17,426	62,016
Annexing part of Clackamas County to Multnomah (2)	16,250	69,002
Creating Williams County from parts of Lane and Douglas (2)	14,508	64,090
For protection of laborers in hazardous employment, fixing employers' liability, etc. (2)	56,258	33,943
Creating Orchard County from part of Umatilla (2)	15,664	62,712
Creating Clark County from part of Grant (2)	15,613	61,704
To establish State Normal School at Weston (2)	40,898	46,201
To annex part of Washington County to Multnomah (2)	14,047	68,221
To establish State Normal School at Ashland (2)	38,473	48,655
Prohibiting sale of liquors, and regulating shipments of same, and providing for search for liquor (2)	42,651	63,564
Creating board to draft employers' liability law for submission to legislature (2)	32,224	51,719
Prohibiting taking of fish in Rogue River except with hook and line (2)	49,712	33,397
Creating Des Chutes County out of part of Crook (2)	17,592	60,486
Bill for general law under which new counties may be created or boundaries changed (2)	37,129	42,327

(2) Submitted by Initiative Petition.

Measures—	Yes.	No.
Permitting voters in direct primaries to express choice for President and Vice-President, to select delegates to National conventions and nominate candidates for Presidential Electors (2)	43,353	41,624
Creating Board of People's Inspectors of Government, providing for reports of board in Official State Gazette to be mailed to all registered voters bi-monthly (2)	29,955	52,538

GENERAL ELECTION NOVEMBER 5, 1912.

Constitutional amendments—		
Woman suffrage amendment (2)	61,265	57,104
Creating office of Lieutenant-Governor (1)	50,562	61,644
Divorce of local and State taxation (1)	51,852	56,671
Permitting different tax rates on classes of property (1)	52,045	54,483
Repeal of county tax option (1)	63,881	47,150
Majority rule on constitutional amendments (1)	32,934	70,325
Double liability on bank stockholders (1)	82,981	21,738
Majority rule on initiated laws (2)	35,721	68,861
Limiting State road indebtedness (2)	59,452	43,447
Limiting county road indebtedness (2)	57,258	43,858
Income tax amendment (2)	52,702	52,948
County road bonding act (2)	38,568	63,481
Abolishing Senate; proxy voting; U'Ren constitution (2)	31,020	71,183
State-wide single tax with graduated tax jug handle (2)	31,534	82,015
Measures—		
State-wide public utilities regulation (3)	65,985	40,956

(1) Submitted by the Legislature.
(2) Submitted by Initiative Petition.
(3) Referendum ordered by petition of the people.

Measures—	Yes.	No.
Creating Cascade County (2)	26,463	71,239
Millage tax for University and Agricultural College—simple tax law (2)	48,701	57,279
County bonding and road construction act—grange bill (2)	49,699	56,713
Creating State Highway Department—grange bill (2)	23,872	83,846
Changing date State Printer bill becomes effective (2)	34,793	69,542
Creating office of Hotel Inspector (2)	16,910	91,995
Eight-hour day on public works (2)	64,508	48,078
Blue sky law (2)	48,765	57,293
Prohibiting private employment of convicts (2)	73,800	37,492
Relating to employment of county and city prisoners (2)	71,367	37,731
State road bonding act (2)	30,897	75,590
County bonding act (2)	43,611	60,210
Providing method for consolidating cities and creating new counties (2)	40,199	56,992
Tax exemption on household effects (2)	60,357	51,826
Tax exemption on moneys and credits (2)	42,491	66,540
Revising inheritance tax laws (2)	38,609	63,839
Freight rates act (2)	58,306	45,534
Abolishing capital punishment (2)	41,951	64,578
Prohibiting boycotting (2)	49,826	60,560
Giving mayor authority to control street speaking (2)	48,987	62,532
Appropriation for University (3)	29,437	78,985
Appropriation for University (3)	27,310	79,376

SPECIAL ELECTION NOVEMBER 4, 1913.

Measures—	Yes.	No.
State University Building Repair Fund (3)	56,659	40,600

(2) Submitted by Initiative Petition.

(3) Referendum ordered by petition of the people.

Measures—	Yes.	No
University of Oregon new building appropriation (3)	53,569	43,014
Sterilization Act (3)	41,767	53,319
County Attorney Act (3)	54,179	38,159
Workmen's Compensation Act (3)	67,814	28,608

(3) Referendum ordered by petition of the people.

The foregoing table shows measures submitted to the electors of the State at large. Smaller units than the State have held many elections at which both initiative and referendum measures have been rejected or approved. At the regular election held in 1912, seven initiative measures were submitted to the electors of different counties in the State. Thus the electors of Clackamas County, Coos County and Multnomah County each voted for or against Single Tax. In Wallowa County, the electors considered the question of abolishing the high school.

In the cities is where the electors are called upon most frequently to vote upon initiative and referred measures. For some time after the adoption of the amendment to the Constitution permitting the cities to legislate by initiative and referendum petition, this method was infrequently followed. Legislating by initiative in cities is now often resorted to. State elections, county elections, and city elections—each one bringing with it some legislative problem for solution, has begun to tire the voters. At a special election held in the city of Portland, December 9, 1913, the people of the city passed upon 15 measures on the ballot. Every proposed measure was rejected. The people took little interest in the various measures. In many precincts but 20 per cent of the vote was cast.[1]

1 For the measures considered at this election, see Appendix "A."

CHAPTER IV.

DIRECT PRIMARY LAW.

Enactment.—The Direct Primary Nominating Elections Law, usually referred to as the Direct Primary Law, was proposed by initiative petition and approved by a majority of votes cast thereon at the general election held June 6, 1904. There were 56,285 votes cast for the law and 16,354 votes cast against the law. By proclamation of the Governor, the law became effective June 24, 1904. This law as modified by subsequent amendments is set forth in the following paragraphs of this chapter.

Preamble.—Under our form of government, political parties are useful and necessary at the present time. It is necessary for the public welfare and safety that every practical guaranty shall be provided by law to assure the people generally as well as the members of the several parties, that political parties shall be fairly, freely and honestly conducted, in appearance as well as in fact. The method of naming candidates for elective public offices by political parties and voluntary political organizations is the best plan yet found for placing before the people the names of qualified and worthy citizens from whom the electors may choose the officers of our government. The government of our State by its electors and the government of a political party by its members are rightfully based on the same general principles. Every political party and every voluntary political organization has the same right to be protected from the interference of persons who are not identified with it as its known and publicly avowed members, that the government of the State has to protect itself from the interference of persons who are not known and registered as its electors. It is as great a wrong to the people,

as well as to the members of a political party, for one who is not known to be one of its members to vote or take any part at any election or other proceedings of such political party, as it is for one who is not a qualified and registered elector to vote at any State election or take any part in the business of the State. Every political party and voluntary political organization is rightfully entitled to the sole and exclusive use of every word of its official name. The people of the State and the members of every political party and voluntary political organization are rightfully entitled to know that every person who offers to take any part in the affairs or business of any political party or voluntary political organization in the State is in good faith a member of such party. The reason for the law which requires a secret ballot when all the electors choose their officers, equally requires a secret ballot when the members of a party choose their candidates for public office. It is as necessary for the preservation of the public welfare and safety that there shall be a free and fair vote and an honest count as well as a secret ballot at primary elections, as it is that there shall be a free and fair vote and an honest count in addition to the secret ballot at all elections of public officers. All qualified electors who wish to serve the people in an elective public office are rightfully entitled to equal opportunities under the law.

The purpose of this law is better to secure and to preserve the rights of political parties and voluntary political organizations, and of their members and candidates, and especially of the rights above stated.

Rules of Construction.—The provisions of this law shall at all times be construed in such manner as shall make it operate as nearly as possible in accordance with the foregoing statement of the theory on which it is based. Whenever the provisions of this law in operation prove to be of doubtful or uncertain meaning, or not sufficiently explicit in directions and details, the

general laws of Oregon, and especially the election and registration laws, and the customs, practice, usage, and forms thereunder, in the same circumstances or under like conditions, shall be followed in the construction and operation of this law, to the end that the protection of the spirit and intention of said laws shall be extended so far as possible to all primary elections, and especially to all primary nominating elections provided for by this law.

Date of Primary Election.—On the third Friday in May, of the year 1914, and biennially thereafter, there shall be held in the several election precincts of the State of Oregon a general primary nominating election at which shall be nominated such State, district, county and precinct officers as are to be elected at the general election of that year.

Candidates for President and Vice President of the United States.—When candidates for the offices of President and Vice President of the United States are to be nominated, every qualified elector of a political party subject to this law shall have opportunity to vote his preference, on his party nominating ballot, for his choice for one person to be the candidate of his political party for President, and one person to be the candidate of his political party for Vice President of the United States, either by writing the names of such persons in blank spaces to be left on said ballot for that purpose, or by marking with a cross before the printed names of the persons of his choice, as in the case of other nominations. The names of any persons shall be so printed on said ballots solely on the petition of their political supporters in Oregon, without such persons themselves signing any petition, signature or acceptance. The names of persons in such political party who shall be presented by petition of their supporters for nomination to be party candidates for the office of President or Vice President of the United States, shall

be printed on the nominating official ballot, and the ballots shall be marked, and the votes shall be counted, canvassed and returned in like manner and under the same conditions as to names, petitions and other matters, as far as the same are applicable, as the names and petitions of aspirants for the party nominations for the office of Governor and for United States Senator in Congress are or may be by law required to be marked, filed, counted, canvassed, and returned.

Delegates to National Conventions.—The members of the political parties subject to this law shall elect their party delegates to their national conventions for the nomination of their party candidates for President and Vice President of the United States, and shall nominate candidates for their party presidential electors at such nominating election. The Governor shall grant a certificate of election to each of the delegates so elected, which certificates shall show the number of votes received in the State by each person of such delegate's political party for nomination as its candidate for President and for Vice President. Nominating petitions for the office of delegate to the respective party national conventions, to be chosen and elected at said nominating election, shall be sufficient if they contain a number of signatures of the members of the party equal to one per cent of the party vote in the State at the last preceding election for Representative in Congress, provided that not more than 500 signatures shall be required on any such petition. Every qualified voter shall have the right at such nominating election to vote for the election of one person and no more to the office of national delegate for his party, and to vote for the nomination of one aspirant and no more for the office of presidential elector as the candidate of his party. A number of such candidates equal to the number of delegates to be elected by each party which is subject to the provisions of this law, receiving, respectively, each for himself, the highest number of votes for such

office, shall be thereby elected. Every political party subject to the provisions of this law shall be entitled to nominate, at said nominating election, as many candidates for the office of presidential elector as there are such officers to be elected; that number of aspirants in every such party who shall receive, respectively, each for himself the highest number of votes of his party for that nomination, shall be thereby nominated as a candidate of his political party for the office of presidential elector.

Pay and Oath of Delegates to National Conventions.—Every delegate to a national convention of a political party recognized as such organization by the laws of Oregon, shall receive from the State treasury the amount of his traveling expenses necessarily spent in actual attendance upon said convention, as his account may be audited and allowed by the Secretary of State, but in no case to exceed two hundred dollars for each delegate; provided, that such expenses shall never be paid to any greater number of delegates of any political party than would be allowed such party under the plan by which the number of delegates to the Republican National Convention was fixed for the Republican party of Oregon in the year 1908. The election of such national delegates for political parties not subject to the Direct Primary Nominating Elections Law shall be certified in like manner as nominations of candidates of such political parties for elective public offices. Every such delegate to a national convention to nominate candidates for President and Vice President, shall subscribe an oath of office that he will uphold the Constitution and laws of the United States and of the State of Oregon, and that he will, as such officer and delegate, to the best of his judgment and ability, faithfully carry out the wishes of his political party as expressed by its voters at the time of his election.

Space in Campaign Book.—The committee or organization which shall file a petition to place the name of any person on the nominating ballot of their political party to be voted for by its members for expression of their choice for nomination as the candidate of such party for President or Vice President of the United States, shall have the right, upon payment therefor, to four pages of printed space in the campaign books of such political party provided for by Sections 4 and 5 of the law proposed by initiative petition and enacted by the people of Oregon at the general election in June, 1908, entitled, "A bill to propose by initiative petition a law to limit candidates' election expenses; to define, prevent and punish corrupt and illegal practices in nominations and elections; to secure and protect the purity of the ballot; to amend Section 2775 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon; to provide for furnishing information to the electors and to provide the manner of conducting contests for nominations and elections in certain cases," as printed on pages 15 to 38 of the General Laws of Oregon for the year 1909. In this space said committee shall set forth their statement of the reasons why such person should be voted for and chosen by the members of their party in Oregon and in the nation as its candidate. Any qualified elector of any such political party who favors or opposes the nomination of any person by his own political party as its candidate for President or Vice President of the United States, may have not exceeding four pages of space in his aforesaid party nominating campaign book, at a cost of one hundred dollars per printed page, to set forth his reasons therefor.

Every person regularly nominated by a political party, recognized as such by the laws of Oregon, for President or Vice President of the United States, or for any office to be voted for by the electors of the State at large, or for Senator or Representative in Congress shall be entitled to use four pages of

printed space in the State campaign book provided for by Sections 6 and 7 of the above entitled "Law to limit candidates' election expenses; to define, prevent and punish corrupt and illegal practices in nominations and elections; to secure and protect the purity of the ballot; to amend Section 2775 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon; to provide for furnishing information to the electors and to provide the manner of conducting contests for nominations and elections in certain cases," as printed on pages 15 to 38 of the volume of the General Laws of Oregon for 1909. In this space, the candidate, or his supporters with his written permission filed with the Secretary of State, may set forth the reasons why he should be elected. No charge shall be made against candidates for President and Vice President of the United States for this printed space. The other candidates above named shall pay at the rate of one hundred dollars per printed page for said space, and said payment shall not be counted as a part of the 10 per cent of one year's salary that each candidate is allowed to spend for campaign purposes. If this bill shall be approved by the people the title of the bill shall stand as the title of the law.

Election Precincts and Boards.—The election precincts provided by Section 3304,[1] and the judges and clerks and the polling places provided by Section 3305,[1] shall be the same for the primary nominating elections provided for in this law, and it shall be the duty of the judges and clerks so provided for to act as such at all primary nominating elections herein provided for, except as otherwise provided by Section 3354.[2] In all election precincts in which second boards of judges and clerks have been or may be appointed as required by Section 3306,[1]

1 For this section in full see Appendix "B."

2 For this section see post, paragraph entitled, "Procedure in Municipal Elections," page 53.

and in which an aggregate of more than 100 members of all or any of the political parties subject to the provisions of this law are registered as such before the day of the primary nominating election, the said second board of judges and clerks shall meet at 8 o'clock p. m. at their respective polling places, and thereafter the boards of judges and clerks shall proceed at the primary nominating election as required by said Section 3306 at a general election.

Notice of Election.—It shall be the duty of the Secretary of State not less than 45 days before any primary nominating election to prepare and furnish to each county clerk a statement showing the several State and district offices for which candidates are to be chosen in his county at such election by the political parties subject to this law, including delegates to any constitutional convention then called and delegates to the party national conventions, if any there be. The county clerk shall not less than 30 days before any primary nominating election prepare printed notices of such election and mail two of said notices to each judge and clerk of election in each precinct; and it shall be the duty of the several judges and clerks immediately to post said notices in public places in their respective precincts. Said notices shall be substantially in the following forms:

PRIMARY NOMINATING ELECTION NOTICE.

Notice is hereby given that on ..... the ..... day of ....., 19..., at the ....., in the precinct of ....., in the county of ....., Oregon, a primary nominating election will be held at which the (insert names of political parties subject to this law) will choose their candidates for state, district, county, precinct and other offices, namely (here name the offices to be filled, including a senator in congress when the next legislative assembly is to elect a senator, delegates to any constitutional convention then called, and candidates for county cen-

tral committeemen to be elected); which election will be held at eight o'clock in the forenoon and will continue until eight o'clock in the afternoon of said day.

Dated this ..... day of ....., 19....

.....,
County Clerk.

Procedure in Municipal Elections.—The nomination of candidates for municipal offices by the political parties subject to the provisions of this law, shall be governed by this law in all incorporated towns and cities of this State having a population of two thousand and upward, as shown by the last preceding national or State census. All petitions by the members of such political parties for placing the names of candidates for nomination for such municipal offices on the primary nominating ballots of the several political parties, shall be filed with the city clerk, recorder, or auditor, as the case may be, of said several towns and cities, and it shall be the duty of such officers to prepare and issue notices of election for such primary nominating elections in like manner as the several county clerks perform similar duties for nominations by such political parties for county offices at primary nominating elections; and in such towns or cities holding their municipal elections at the same time as any general election, it shall be the duty of said city clerk, recorder, or auditor, as the case may be, on the fifteenth day before the time of holding such primary nominating election, to prepare and certify and deliver to the county clerk of the county in which said city or town is situated, a list of the candidates for nomination who have filed valid petitions for nomination at such primary nominating election, and all the information in such petitions concerning the said candidates for nomination for municipal offices; whereupon it shall be the duty of said county clerk to arrange in the manner provided by this law the names and information concerning all the can-

didates for such nomination for city offices contained in the certificate of said city clerk, recorder, or auditor; to certify and post the same in his office, and to cause the same to be printed upon the sample ballots and upon the official ballots of the several political parties to be used at the several polling places within the limits of every such city or town, together with the names of the candidates for State, county, and district offices at such primary nominating election as required by this law, and conform to the general provisions of this law as nearly as may be; and in cities and towns containing a population of two thousand and upward not holding their municipal elections at the same time the general elections are held, the duties imposed by this law on the county clerk at primary nominating elections, are hereby, as to all said last described towns and cities, designated to be the duties of the city clerk, recorder, or auditor, as the case may be, of said towns and cities as to primary nominating elections of the political parties subject to the provisions of this law; provided, that in such last named cities and towns the primary nominating election shall be held on the thirtieth day preceding their municipal elections. Under the provisions of this law the lawfully constituted legislative and executive authorities of cities and towns within the provisions of this section not holding their municipal elections at the same time the general elections are held, shall have such power and authority over the establishment of municipal voting precincts and wards, municipal boards of judges and clerks of election and other officers of their said municipal elections, and other matters pertaining to municipal primary nominating elections required for such cities and towns by this law, that such legislative and executive authorities have over the same matters at their municipal elections for choosing the public officers of said cities and towns; and provided further, that nothing in this act contained shall be construed as altering or repealing any pro-

vision of the charter of any such last described city or town providing for the appointment of judges and clerks of election by the council or other lawfully constituted authority of such city or town, or as altering or repealing any of the provisions of Title XXVI, providing for the appointment of judges and clerks of election in towns and cities organized under the provisions of said Title XXVI.

Counting the Vote.—Immediately after the closing of the polls at a primary nominating election the names of the electors of each political party who voted at said primary nominating election shall be counted, and the number so voting for each political party written and certified in each of the poll books at the end of the list, and the same shall be immediately signed by the chairman and each of the judges and clerks in the manner provided by Section 3324,[1] for a general election, and immediately thereafter the clerks and judges of election shall open the ballot boxes at each polling place and proceed to take therefrom the ballots. Said officers shall count the number of ballots cast by each political party, at the same time bunching the tickets cast for each political party together in separate piles, and shall then fasten each pile separately by means of a brass clip, or may use any means which shall effectually fasten each pile together at the top of each ticket. As soon as the clerks and judges have sorted and fastened together the ballots separately for each political party, then they shall take the tally sheets provided by the county clerk and shall count all the ballots for each political party separately until the count is completed, and shall certify to the number of votes for each candidate for nomination for each office upon the ticket of each party. They shall then place the counted ballots in the box. After all have been counted and certified to by the clerks

1 For this section in full see Appendix "B."

and judges they shall seal the returns for each of said political parties in separate envelopes, to be returned to the county clerk.

Primary Deemed Separate Election for Each Political Party.—In construing the provisions of this law, and of all sections of this compilation, hereby made applicable to primary nominating elections they shall, as to the duties of officers, forms, blanks, ballots, elections and all other matters so far as may be, be understood and interpreted as though said political party making its nominations hereunder, and to be conducted as to that party as nearly as practicable the same as the regular biennial general elections in November are conducted for all the electors, except in so far as the manner of proceeding at said November election may be modified or changed by this law for the purpose of said primary nominating election. The provisions of this law do not modify or in any manner control the proceedings at the regular biennial general elections, except in so far as they may be herein expressly and directly amended.

Tally Sheets.—Tally sheets for each political party having candidates to be voted for at said primary nominating election shall be furnished for each voting precinct by the county clerk, at the same time and in the same manner that the ballots are furnished, and shall be substantially as follows:

"Tally sheets of the primary nominating election for ..... (name of political party) held at ..... precinct, in the county of ..... on the ..... day of ....., 19...."

The names of the candidates shall be placed on the tally sheets and numbered in the order in which they appear on the official and sample ballots, and in each case shall have the proper political party designated at the head thereof.

The following shall be the form of the tally sheets kept by the judges and clerks of the primary nominating election under this law, containing the number and name of each person voted

for, the particular office for nomination to which each person was voted for, the total number of votes cast for each candidate for nomination. The tally or count as it is kept by each of the clerks, shall be audibly announced as it proceeds, and shall be kept in the manner and form as follows:

No.	Names of Candidates	Office	Total Vote Received	No.	Tally 5	No.	Tally 10	No.	Tally 15
12				12		12		12	
13				13		13		13	
14				14		14		14	

The columns for the numbers 12, 13, 14, etc., shall not be over three-eighths of an inch wide. The columns for the tallies shall be three-eighths of an inch wide, the lines shall be three-eighths of an inch apart; every 10 lines the captions of the columns shall be reprinted between double-ruled lines in bold-faced small pica, and all the figures shall be printed in bold-faced small pica. The tally sheets shall conclude with the following form of certificate:

We hereby certify that at the above primary nominating election and polling place each of the foregoing named persons received the number of votes set opposite his name as above set forth for the nomination for the office specified.

...., Clerk.
(Who kept this sheet.)
....., Chairman.
....., Judge.
....., Judge.
....., Clerk.
....., Clerk.
(Who kept the other sheet.)

During the counting of the ballots each clerk shall, with pen and ink, keep tally upon one of the above tally sheets, of each political party, and shall total the number of tallies and write the total in ink immediately to the right of the last tallies for each candidate, and also in the columns headed "total vote," and shall prepare the certificate thereto above indicated; and immediately upon the completion of the count, all the clerks shall sign the tally sheets, and each of them shall certify which sheets were kept by him; and the chairman and the judges, being satisfied of the correctness of the same, shall then sign all of said tally sheets. The clerks shall then prepare a statement of that portion of the tally sheets showing the number and name and political party of each candidate for nomination and the office and total votes received by each in the precinct, and shall prepare the certificate thereto, which statement shall be signed by the judges and clerks to complete the count, and shall be immediately posted in a conspicuous place on the outside of said polls, there to remain for ten days. When two boards of judges and clerks participate in the counting of the ballots, each board shall keep and certify its own separate tally sheets. When one board is relieved by the other board, the retiring board shall, before adjourning, total up the tallies representing the ballots so far counted for each candidate for nomination, and a memorandum of the total vote received by each candidate shall be noted on the tally sheet in ink, immediately above the last tallies for each candidate, all done in ink, but in such manner as not to render the tally sheet unfit for continuing the count upon the reconvening of the board. During the recess the chairman and second judge of the board shall each have the custody of one set of the tally sheets, and the third set of sheets shall be deposited in the ballot box, all the third set of sheets being kept sealed under the official seal of the board until the board reconvenes. When it is seen

which board will have to complete the count, the outgoing board shall complete the addition and certifications upon its tally sheets, and deliver two sets of its tally sheets to the chairman of the board which is to complete the count of the ballot. The third set of tally sheets shall be sealed under the official seal of the board, indorsed on the outside to identify it, and retained by the chairman of the board which made and certified it, to be kept by him safely, subject to the control of the proper court.

Count Completed and Authenticated.—Immediately after canvassing the votes in the manner aforesaid, the judges and clerks to complete the count, before they separate or adjourn shall enclose the poll books in separate covers and securely seal the same. They shall also enclose the tally sheets in separate envelopes and seal the same securely. They shall also envelop all the ballots fastened together, as aforesaid, and seal the same securely; and they shall, in writing, with pen and ink, specify the contents, and address each of said packages upon the outside thereof to the county clerk of the county in which the election precinct is situated. When two boards participate in counting the ballots each board, before taking its recess, shall plainly mark and identify the last ballot which it has counted and seal the same under the official seal of the board upon the back of the said uppermost ballot. They shall then string the loose ends of the counted ballots and tie the same tightly and seal the knot and string over the loose end of the ballots with their official seal in such manner that it will show if broken, and leave the same with the ballot boxes until the count is completed. These sealed packages of counted ballots shall be marked on the outside, showing what numbers are contained therein, but, once sealed, they are not to be opened by any one until so ordered by the proper court. When the count is completed, the ballots counted and sealed, and enveloped and marked for identification as aforesaid, shall be packed in the

two ballot boxes, and nothing else shall be put into the boxes. The boxes shall then be locked, and the official seal of the board which finally completed the count shall be pasted over the key-hole and over the rim of the lid of the box, so that the box can not be opened without breaking the seal. Thereafter neither the county clerk nor the canvassers making abstracts of the votes shall break the said seals upon the ballot boxes, nor shall any one break the seals on the boxes or the ballots, except upon the order of the proper court in case of contest, or upon the order of the county court when the boxes are needed for the ensuing election.

Political Party Defined.—A political party within the meaning of this act is an affiliation of electors representing a political party or organization, which, at the last preceding general election polled for its candidates for presidential electors at least 20 per cent of the entire vote cast for that office in the State. Every such political party shall nominate all its candidates for public office, under the provisions of this law and not in any other manner, and it shall not be allowed to nominate any candidate in the manner provided by Section 3333.[1] Every political party and its regularly nominated candidates, members, and officers shall have the sole and exclusive right to use of the party name and the whole thereof, and no candidate for office shall be permitted to use any word of the name of any other political party or organization than that by which he is nominated. No independent or non-partisan candidate shall be permitted to use any word of the name of any existing political party or organization in his candidacy, nor shall he be permitted to use any other name than "Independent" or "Non-partisan." The names of candidates for public office nominated under the provisions of this law shall be printed on the official ballots

1 For this section in full see Appendix "B."

for the ensuing election as the only candidates of the respective parties for such public office in like manner as the names of the candidates nominated by other methods are required to be printed on such official ballots, and the provisions of Sections 3347[1] and 3348[1] shall apply to and are hereby made applicable to nominations for public office made under this law, so far as the same are not in conflict with the provisions of this law.

Electing National Committeemen.—At the general primary nominating election held in 1914, and every four years thereafter, every political party as defined in Section 1 hereof shall elect its members of the national committee. A candidate for such office shall file his nominating petition with the Secretary of State as now required by candidates for State offices. Such petition shall be signed by at least 200 qualified voters of the political party of such candidate. The names of all such candidates shall be printed on the primary election ballots of the respective political parties of which they are candidates, and shall be voted for only by the members of the party of which any such person is a candidate. A plurality shall be sufficient to elect, and any person so elected shall hold office until his successor is elected. In case of a vacancy by death, resignation or otherwise, such vacancy shall be filled for the unexpired term by the State central committee of the party in which such office of national committeeman is vacant. Except as herein otherwise provided, existing provisions of law relating to elections are hereby made applicable to the election of national committeemen.

Candidates to File Petitions for Nomination.—Before or at the time of beginning to circulate any petition for nomination to any office under this law, the person who is to be a candidate for such nomination shall send by registered mail or otherwise

[1] For this section in full see Appendix "B."

to the Secretary of State or the county clerk or city clerk, recorder or auditor, as the case may be, a copy of his petition for nomination, signed by himself, and such copy shall be filed and shall be conclusive evidence for the purposes of this law that said elector has been a candidate for nomination by his party. All nominating petitions and notices pertaining to candidates for the office of delegate to a party national convention, Elector of President and Vice President of the United States, United States Senator in Congress, Representative in Congress, Governor, Secretary of State, State Treasurer, Justice of the Supreme Court, Attorney General, Superintendent of Public Instruction, State Printer, State Engineer, Dairy and Food Commissioner, Commissioner of the Bureau of Labor Statistics and Inspector of Factories and Workshops, Commissioner of the Railroad Commission of Oregon, Superintendent of a Water Division, Judge of the circuit court, District or Prosecuting Attorney, State Senator or Representative in the legislative assembly, or other office to be voted for in the State at large, or in a district composed of one or more counties, shall be filed with the Secretary of State; all nominating petitions and notices pertaining to candidates for county offices and district or precinct offices within a county shall be filed with the county clerk; and for all city offices in the office of the city clerk, recorder or auditor, as the case may be.

Form of Petition—Statements Nos. One and Two.—Any qualified elector who has filed his petition and is registered as herein required as a member of a political party subject to the provisions of this act, shall have his name printed on the official nominating ballot of his party as a candidate for nomination for any office at any primary nominating election held under the provisions of this act, if there shall be filed in his behalf a petition signed as herein required, and substantially in the following form:

To (address of the officer with whom the petition is to be filed), and to the members of the ..... party and the electors of (state) (counties of ....., comprising the ..... district) (county) (city) (as the case may be), in the state of Oregon.

I, ..., reside at ....., and my post-office address is ..... I am a duly registered member of the ..... party. If I am nominated for the office of ....., at the primary nominating election to be held in the (state of Oregon), (district), (county), (city), the ..... day of ....., 19..., I will accept the nomination and will not withdraw, and if I am elected I will qualify as such officer.

If I am nominated and elected I will, during my term of office, (here the candidate, in not exceeding one hundred words, may state any measures or principles he especially advocates, and the form in which he wishes it printed after his name on the nominating ballot, in not exceeding twelve words).

In case of an elector seeking nomination for the office of Senator or Representative in the legislative assembly, he may include one of the following two statements in his petition; but if he does not do so, the Secretary of State or county clerk, as the case may be, shall not on that account, refuse to file his petition:

STATEMENT NUMBER ONE.

I further state to the people of Oregon as well as to the people of my legislative district, that during my term of office, I will always vote for that candidate for United States senator in congress who has received the highest number of the people's votes for that position at the general election next preceding the election of a senator in congress, without regard to my individual preference.[1]

.....

(Signature of the candidate for nomination.)

1 The XVIIth Amendment of the U. S. Const. providing for the election of U. S. Senators by direct vote of the people has superseded the method of popular recommendation set forth in the Direct Primary Law.

If the candidate shall be unwilling to sign the above statement, then he may sign the following statement as a part of his petition:

STATEMENT NUMBER TWO.

During my term of office I shall consider the vote of the people for United States senator in congress as nothing more than a recommendation, which I shall be at liberty to wholly disregard if the reason for doing so seems to me to be sufficient.

.....

(Signature of the candidate for nomination.)

Every such petition shall be signed as above by the elector seeking such nomination. There shall be a separate leaf or sheet signed as above on every such petition for each precinct in which it is circulated. After the above and on a separate sheet or sheets, shall be the following petition:

To ..... (secretary of state for Oregon), or (to ....., the county clerk for the county of ....., Oregon), or (to ....., city clerk of the city of ....., as the case may be): We, the undersigned registered members of the ..... party and qualified electors and residents of ..... precinct, in the county of ....., state of Oregon, respectfully request that you will cause to be printed on the official nominating ballot for the ..... party at the aforesaid primary nominating election, the name of the above signed ..... (name of applicant) as a candidate for nomination to the office of ..... (title of office) by said ..... party.

Name	P. O. Address	Street and No., if any	Precinct

Each and every leaf or sheet of said petition containing signatures shall be verified in substantially the following form by one or more of the signers of said petition:

State of Oregon, }
County of ..... } ss.

I, ..., being first duly sworn, say: I am personally acquainted with all the persons who have signed this sheet of the foregoing petition, and I personally know that their signatures thereon are genuine; and I believe that their post-office address and residence are correctly stated, and that they are qualified electors and registered members of the ..... party.

.....
(Signature of affiant.)

Subscribed and sworn to before me this ..... day of ....., 19....

.....
(Signature and title of officer before whom oath is made.)

Number of Signatures Required—Distribution.—The vote cast by a political party in each precinct for Representative in Congress at the last preceding general election shall be the basis on which the percentage for petitions shall be counted; provided, that if any political party cast 25 per cent of the total votes in the State for Representative in Congress, although less than the required percentage in any one or more electoral districts, county, municipality or precinct, it shall nevertheless be subject to the provisions of this law in making nominations in such electoral districts, county, municipality and precinct. If the nomination is for a municipal office, or an office to be voted for in only one county, the necessary number of signers shall include electors residing in at least one-fifth of the voting precincts of the county, municipality or district; if it be a State or district office and the district comprises more than one county, the necessary number of signers shall include electors residing in each of at least one-eighth of the precincts in each of at least two counties in the district; if it be an office to be voted for in the State at large, the necessary number of signers shall include electors residing in each of at least one-tenth of

the precincts in each of at least seven counties of the State; if it be an office to be voted for in a congressional district, the necessary number of signers shall include electors residing in at least one-tenth of the precincts in each of at least one-fourth of the counties in such district. The number of signers required on every such petition shall be at least two per cent of the party vote in the electoral district as above stated; provided, that the whole number of signers required on a nominating petition under the provisions of this law for any office to be voted for in the State at large, or in a congressional district, shall not exceed one thousand, nor in any other case shall the whole number required exceed five hundred signers. All the leaves or sheets making one petition shall be fastened together before they are forwarded to the proper officers for filing. There shall not be in any petition the name of more than one candidate for nomination. Any elector may sign more than one nominating petition required by this law for the same office. It shall be unlawful for any person to sign another person's name to any petition required by this law. It shall be unlawful for any person to sign any nominating petition required by this law unless he is a qualified elector and at the time of signing has registered for the ensuing election as a member of the political party represented by the petition. Any names or signatures placed on any petition in violation of the provisions of this law shall not be counted in computing the number of signers necessary to make the same a valid and effective petition.

Qualifications of Signers.—No person who is not a qualified elector and a registered member of a party making its nominations under the provisions of this law shall be qualified to join in signing any petition for nomination, or to vote at said primary nominating election, and no person shall be qualified to sign any nominating petition of any other political party for the primary nominating election than that with which he is

registered as a member. But this shall not be construed to prevent any registered member of any party from signing a petition for the nomination of any independent or non-partisan candidate after the primary nominating election, nor shall it be construed to prevent any qualified elector from signing petitions for more than one candidate for the same office on one party ticket.

Time of Filing Petitions.—All petitions for nominations required to be filed with the Secretary of State shall be filed not later than the 35th day prior to the primary nominating election, and all petitions required to be filed with the county clerk, city clerk, recorder or auditor, as the case may be (in towns or cities having 2,000 or more inhabitants), shall be filed not later than the 30th day prior to the primary nominating election.

Register of Candidates to Be Kept—Contents.—The county clerk, Secretary of State, and the city clerk, recorder, or auditor of towns and cities having 2,000 inhabitants or more, shall keep a book entitled "Register of Candidates for Nomination at the Primary Nominating Election," and he shall enter therein on different pages of the book for the different political parties subject to the provisions of this law, the title of the office sought and the name and residence of each candidate for nomination at the primary nominating election, the name of his political party, the date of receiving the first copy of his petition signed by the candidate, the words he wishes printed after his name on the nominating ballot, if any, the date of receiving his petition, the number of signatures thereon, and the number of signatures required to make a valid and sufficient petition for nomination to said office by his political party, and such other information as may aid him in arranging his official ballot for said primary nominating election. Immediately after the canvass of votes at a primary nominating election is completed, the

county clerk, Secretary of State, or city clerk, recorder, or auditor, as the case may be, shall enter in his book marked "Register of Nominations," provided by Section 3341,[1] the date of such entry, the name of each candidate nominated, the office for which he is nominated, and the name of the party making the nomination.

Registers to Be Public Documents.—Such registers of candidates for nomination and of nominations, and petitions, letters and notices and other writings required by law, as soon as filed, shall be public records, and shall be open to public inspection under proper regulations, and when a copy of any such writing is presented at the time the original is filed, or at any time thereafter, and a request is made to have such copy compared and certified, the officers with whom such writing was filed, shall forthwith compare such copy with the original on file, and, if necessary, correct the copy and certify and deliver the copy to the person who presented it on payment of his lawful fees therefor. All such writings, poll books, tally sheets, ballots, and ballot stubs pertaining to primary nominating elections under the provisions of this act, shall be preserved as other records are, for two years after the election to which they pertain, at which time, unless otherwise ordered or restrained by some court, the county court shall destroy the ballots and ballot stubs, by fire, without any one inspecting the same.

Death or Withdrawal—Vacancies.—The provisions of Sections 3343[1] and 3344[1] shall apply to nominations or petitions for nominations made under the provisions of this law, in case of the death of the candidate or his removal from the State or his county or electoral district before the date of the ensuing election, but in no other case. In case of any such vacancy by death or removal from the State or of (from) the county or

1 For this section in full see Appendix "B."

electoral district, such vacancy may be filled by the committee which has been given power by the political party or this law to fill such vacancies substantially in the manner provided by Sections 3345[1] and 3346[1].

When Ballots to Be Arranged by Secretary of State and Sent to Clerks.—Not more than twenty-eight (28) days and not less than twenty-five (25) days before the day fixed by law for the primary nominating election the Secretary of State shall arrange, in the manner provided by this law, for the arrangement of the names and other information upon the ballots, all the names of and information concerning all the candidates for nomination contained in the valid petitions for nomination which have been filed with him in accordance with the provisions of this law, and he shall forthwith certify the same under the seal of the State, and file the same in his office, and make and transmit a duplicate thereof by registered letter to the county clerk of each county in the State, and he shall also post a duplicate thereof in a conspicuous place in his office and keep the same posted until after said primary nominating election has taken place. In case of emergency the Secretary of State may transmit such duplicate by telegraph.

Local Officer to Prepare and Post Ballot.—Not more than twenty-two (22) days and not less than nineteen (19) days before the day fixed by law for the primary nominating election, the county clerk of each county, or the city clerk, recorder or auditor of each city, as the case may be, subject to the provisions of this law, shall arrange in the manner provided by this law for the arrangement of the names and other information concerning all the candidates and parties named in the valid petitions for nominations which have been filed with him, and those which have been certified to him by the Secretary of State,

1 For this section in full see Appendix "B."

in accordance with the provisions of this law, and he shall forthwith certify the same under the seal of the county court, or the official seal of his office, as the case may be, and file the same in his office, and make and post a duplicate thereof in a conspicuous place in his office and keep the same posted until after the primary nominating election has taken place; and he shall forthwith proceed and cause to be printed according to law, the colored sample ballots and the official voting ballots for each political party required by this law.

Ballots and Sample Ballots.—The provisions of Section 3392[1] shall apply to and are hereby made applicable to primary nominating elections under this law. All the official ballots designed to be voted at primary nominating elections shall be printed for the Republican party in black ink upon a good quality of white paper; for the Democratic party in black ink upon a good quality of blue paper, and for any third party in black ink upon a good quality of yellow paper; otherwise, except for the party name, the ballots shall be alike for each political party and of the same size in the same county at the same election. Duplicate impressions of the same shall be printed upon cheaper colored paper, but not of any of the colors above named, so as to be readily distinguished from official ballots designed to be voted; these colored ballots shall be used solely as sample ballots for the information and convenience of voters, and, if voted, shall not be counted.

Arrangement of Ballot.—The ballot shall be styled "official nominating election ballot of ..... party"; shall state the number or name of the precinct and county they are intended for, and date when election is to be held; shall contain the names of all candidates for nomination for offices to be filled at that election whose petitions have been duly made and filed

1 For this section in full see Appendix "B."

as herein provided, and who have not died or removed from their electoral districts, and the names of candidates of the several parties in the several precincts for the members of their county central committees, and of delegates to be chosen to any constitutional convention that may be called, and shall contain no other names of persons; the name of each person for whom as a candidate for nomination a valid petition has been duly filed shall be printed on the ballot in but one place, but there shall be added opposite thereto the measures he especially advocates, expressed in not more than twelve words as specified in the petition for nomination naming him for the office. The names of the candidates for nomination to each office shall be arranged under the designation of the office, in alphabetical order, according to surnames; there shall be left at the end of the list of candidates for nomination to each different office, a blank space in which the elector may write the name of any person not printed on the ballot for whom he desires to vote as a nominee for such office. On the left margin of the ballots for each political party the name of the uppermost candidate for nomination as printed shall be numbered 12, and the next candidate 13, and the next 14, and so on consecutively to the end of the ballot. The blank lines shall not be numbered. Each ballot shall have along the top thereof a stub one and one-half inches wide, perforated along the lower edge thereof; on the left half of the stub shall be printed the words, "stub to be torn off by the chairman"; on the right half, "stub to be torn off by the first clerk," and colored sample ballots shall not be perforated. Immediately below the perforated line shall be printed, in capitals, these words, "Official primary nominating ballot for the ..... party for ..... precinct, ... county, at the primary nominating election to be held on ....., the ..... day of ....., 19..." Under this caption shall be printed, in bold-faced type, the

words, "Mark a cross (X) between the number and the name of each candidate voted for." Below this shall be printed in the manner aforesaid (1) the candidates for nomination for Senator and Representative in Congress and for State offices; (2) for district and county offices; (3) for precinct offices; (4) for other offices. The ballot shall be printed so as to give each elector a clear opportunity to designate his choice for candidates for nomination by making with indelible pencil a cross (X) to the left of the name of the candidate he wishes to vote for nomination to each office; and on the ballot may be printed such words as will aid the elector to do this: "Vote for one," "vote for three," and the like. The ballot shall be of sufficient length and width to permit this to be properly done. The official ballot for each party shall be arranged and printed in substantially the following form, but it may be printed in two or more columns, and shall be ruled, lined and spaced in the manner provided by Section 3394[1] for the official ballots at the regular election:

1 For this section in full see Appendix "B."

STUB To be torn off by the chairman.	STUB To be torn off by the first clerk. .....

OFFICIAL PRIMARY NOMINATING ELECTION BALLOT FOR THE ..... PARTY, FOR SOUTH PORTLAND PRECINCT, MULTNOMAH COUNTY, AT THE PRIMARY NOMINATING ELECTION TO BE HELD ON ....., THE ..... DAY OF APRIL, 19....

Make a cross (X) between the number and the name of each candidate voted for.

THE REPUBLICAN CANDIDATES FOR NOMINATION FOR SENATORS AND REPRESENTATIVES IN CONGRESS, AND FOR STATE OFFICES.

For United States Senator in Congress.	Vote for One.
12 Thurlow B. Merton of Multnomah County.	
13 Walter B. Wilter of Umatilla County.	
For Representative in Congress.	Vote for One.
14 Joseph Jennings of Wasco County.	
15 Jonathan Samms of Gilliam County.	
For Governor.	Vote for One.
16 Samuel Johnson of Marion County, favors franchise tax corporations.	
17 John Samson of Malheur County.	
For Secretary of State.	Vote for One.
18 W. B. Curran of Clatsop County.	
19 George Wilson of Baker County.	

For State Treasurer.	Vote for One.
20 C. H. Chilton of Grant County.	
21 John P. Walker of Columbia County.	

For Supreme Judge.	Vote for One.
22 Arthur C. Simms of Crook County.	
23 Orville Wilkins of Wallowa County.	

For Superintendent of Public Instruction.	Vote for One.
24 George M. Josephson of Wasco County.	
25 Henry J. Summer of Wheeler County.	

For State Printer.	Vote for One.
26 Ord C. Colunder of Douglas County.	
27 Samuel P. Kollen of Washington County.	

REPUBLICAN CANDIDATES FOR NOMINATION FOR DISTRICT AND COUNTY OFFICES.

For Prosecuting Attorney.	Vote for One.
28 William S. Stokes of Multnomah County.	
29 Charles P. Swing of Multnomah County.	

For Judge of Circuit Court.	Vote for One.
30 Amos Strong of Multnomah County.	
31 Christian Thompson of Multnomah County	

For Joint Senator, Clackamas and Multnomah Counties.	Vote for One.
32 George J. McCall of Clackamas County.	
33 William T. Merry of Multnomah County.	

For Joint Representative, Multnomah and Clackamas Counties. Vote for One.	
34	Francis A. Terrel of Multnomah County.
35	Frank Wilson of Multnomah County.

For State Senator from Multnomah County.	Vote for One.
36	Albert Wheatley.
37	Samuel Wilton.

For Representatives from Multnomah County.	Vote for Twelve.
38	Wilbur Able, promises to vote for people's choice for United States Senator.
39	William A. Adams.
40	Orton Anderson.
41	Frank Alger, will not promise to vote for people's choice for United States Senator.
42	Elton Ankeny.
43	Samson Ashley, favors State monopoly sale of liquor on South Carolina dispensary plan.
44	Wilson Atterbury.
45	Angus Bailey.
46	Washington Baird.
47	Fred K. Ball.
48	James Barrow.
49	Chris Barton.
50	John P. Bascom.
51	Franklin B. Bell.

For County Judge of Multnomah County.	Vote for One.
52 Simeon A. Bennet.	
53 Edward S. Bohanan.	
For Sheriff of Multnomah County.	Vote for One.
54 Peter Booth.	
55 Ben F. Boutwell.	
For Clerk of Circuit Court of Multnomah County.	Vote for One.
56 Orrin Buckner.	
57 Warren Burleigh	
For Clerk of County Court of Multnomah County	Vote for One.
58 Henry Butcher.	
59 Phil. Bryne.	
For Recorder of Conveyances for Multnomah County.	Vote for One.
60 Francis P. Calhoun.	
61 Hiram Cannot.	
For County Treasurer of Multnomah County.	Vote for One.
62 William E. Carroll.	
63 Frank C. Carter.	
For Assessor of Multnomah County.	Vote for One.
64 Oliver O. Chadwick.	
65 Walter S. Simpson.	
For School Superintendent of Multnomah County.	Vote for One.
66 Julius C. Coburn.	
67 Darron C. Comstock.	

For County Surveyor of Multnomah County.	Vote for One.
68 Jerry O. Cook.	
69 Lucius P. Copeman.	
For Coroner of Multnomah County.	Vote for One.
70 Ellerton C. Corfman.	
71 Amos E. Cox.	
For County Commissioner of Multnomah County.	Vote for One.
72 Silas Crafter.	
73 John Q. Croker.	

REPUBLICAN CANDIDATES FOR NOMINATION FOR CITY AND PRECINCT OFFICES.

For Mayor of Portland.	Vote for One.
74 John Daley of Tenth Ward.	
75 Roderick Davis of Sixth Ward.	
For Municipal Judge of Portland.	Vote for One.
76 Abraham Kinto of Fourth Ward.	
77 Harrison Knight of Third Ward.	
For City Attorney of Portland.	Vote for One.
78 Edward H. Kohler of First Ward.	
79 Sydney Phillips of Eighth Ward.	
For City Auditor of Portland.	Vote for One.
80 Anton Kuhn of Fifth Ward.	
81 Chas. A. Layne of Eleventh Ward.	
For City Treasurer of Portland.	Vote for One.
82 Wade O. Latimer of Ninth Ward.	
83 Wilson F. Learned of Seventh Ward.	

For City Engineer of Portland.	Vote for One.
84 Worden Q. Lockwood of Fourth Ward.	
85 Otto R. Shields of First Ward.	

For Councilman, Seventh Ward.	Vote for One.
86 Alderson Mason of Seventh Ward.	
87 James Mayer of Seventh Ward.	

For Justice of the Peace.	Vote for One.
88 Albert O. Marsh of Multnomah County.	
89 Wills McLean of Multnomah County.	

For Constable.	Vote for One.
90 Horace Mercher of Multnomah County.	
91 Frederich H. Miller of Multnomah County.	

REPUBLICAN CANDIDATES, FOR ELECTION, FOR COUNTY CENTRAL COMMITTEEMAN FROM SOUTH PORTLAND PRECINCT.

Vote for One.

92 Franklin P. Smith of Multnomah County.
93 Wash C. Squires of Multnomah County.
94 Marion O. Swingerton of Multnomah County.

In every case when five or more persons are candidates for nomination for the same office except a precinct office at a direct primary election, the number of ballot forms required shall be divided into sets equal to the greatest number of candidates for any one office on said ballot and the names of said candidates with their respective numbers for each office where the number of said candidates is equal to five or more shall, beginning with a form arranged in alphabetical order as provided in Section

3371[1] of Lord's Oregon Laws, be rotated by removing one name with its number from the top of the list for each office and by placing said name with its number at the bottom of said list for each successive set of ballot forms. As nearly as possible an equal number of ballots of each set, which shall have been previously "gathered" shall be delivered to each election precinct. The sample ballots now required by law to be printed previous to the day of election, shall be printed from the first or official form of the ballot only.

If any person employed or authorized to print official ballots, or any person employed in printing the same, shall give or deliver, or knowingly permit to be taken any of said ballots by any person other than the official under whose direction such ballots are being printed, or if any person shall knowingly print, or cause, or permit to be printed any ballot in any other form than the one prescribed herein, or with any other names thereon, or with the name or names spelled, or the names of the candidates arranged in any other way than that authorized by this act and directed by said official, or if the official charged by law with the duty of distributing said ballots, or any persons acting for him, shall knowingly distribute or cause to be distributed any of said ballots in any other manner than as herein required, he shall be guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment in the county jail for a term of not less than three months nor more than one year, or by a fine of not less than $250, nor more than $1,000, or both, at the discretion of the court.

Official and Sample Ballots to Be Furnished.—There shall be provided and furnished at each primary nominating election for each election precinct for each voter duly registered therein as

[1] The preceding paragraph of this section, entitled, "Arrangement of Ballot."

a member of a party subject to the provisions of this law, when the registration books are first closed as required by section 3452,[1] at least two official ballots intended to be voted, and a like number of the colored sample ballots. The sample ballots shall be duplicate impressions of the official ballots to be voted, but in no case shall they be white or colored any shade of blue or yellow, nor shall the sample ballots have perforated stubs, nor shall they have the same margin, either at the top or sides or bottom, as the official voting ballots have, or nearer thereto, than 12 points. These colored sample ballots shall be furnished as soon as printed, at any time before the primary nominating election, by the respective county or city clerks, in reasonable quantities to all electors applying for the same, and on the day of said election, under the direction and control of the judges at each polling place, said colored sample ballots shall be given in proper quantities to all electors applying for them.

Vacancies and Cancellations—Ballot Boxes, Supplies.—The provisions of Sections 3396[1] to 3402,[1] inclusive, shall apply to and are hereby made applicable to primary nominating elections under this law, as far as the same are not in conflict with this law.

Method of Voting.—Any person desiring to vote shall give his name and his residence and political party to the first of the election clerks, which clerk shall not be of the same political party as the chairman, who shall thereupon announce the name and residence and party distinctly, and write in the poll book kept by him the name and residence and party of the elector and the word "State," or "State and district," if he is qualified to vote for such officers only, and also write the name and residence of the elector, and, if proper, the word "State," or "State and district," with pen and ink, upon the back of one of the

1 For this section in full see Appendix "B."

stubs upon one of the voter's political party official ballots provided under this act; the clerk shall then with pen and ink write the number of the elector upon the back of each of the two stubs upon said ballot; he shall so number the stubs upon each ballot to correspond with the numbers of the electors in the poll book, beginning with number 1 for the first elector applying to vote, number 2 for the second elector, and so on, and he shall then tear off the stub upon which he wrote the elector's name. The clerk shall then deliver the ballot, with the remaining stub still attached thereto, to the elector. The said clerk shall give the elector one of said voter's political party official ballots, and one only. The clerk shall then, at once, and before issuing another ballot, deliver the stub containing the name and number of the elector to the judges, who shall pass it to the second clerk, who shall immediately enter the numbers in the poll book, and the name and residence and party of the elector opposite thereto, and shall retain the stub in his possession.

Provisions of Election Law Applicable.—The provisions of Sections 3404,[1] 3405,[1] 3406,[1] 3407,[1] 3408,[1] 3409,[1] 3410,[1] 3411,[1] 3412,[1] 3413,[1] 3414,[1] 3415,[1] 3416,[1] and 3424,[1] so far as the same are not in conflict with and are not modified by this law, shall apply to and are hereby made applicable to primary nominating elections under the provisions of this law, provided that the words "white ballot" in every section adopted from said codes and statutes shall, when applied to said primary nominating election, be understood to mean, as to each political party nominating its candidates at such election, the official voting ballot of the respective political parties for that primary nominating election, whether such ballot be white, blue, or yellow, as provided in Section 3370;[2] and provided further, that.

1 For this section in full see Appendix "B."

2 For this section see *ante*, paragraph entitled "Ballots and Sample Ballots," page 70.

the Secretary of State in furnishing the supplies for the primary nominating election as required by Section 3413,[1] shall also furnish a sufficient number of the brass clips or other appropriate fastenings to fasten together the ballots of each political party in each precinct as required by Section 3355.[2]

Candidates for Senator To be Voted For.—At all general primary nominating elections next preceding the election of a Senator in Congress by the legislature of Oregon, there shall be placed upon the official primary nominating election ballots by each of the county clerks and clerks of the county court the names of all candidates for the office of Senator in Congress for whose nominations petitions have been duly made and filed under the provisions of this law, the votes for which candidates shall be counted and certified to by the election judges and clerks in the same manner as the votes for other candidates; and records of the vote for such candidates shall be made out and sworn to by the board of canvassers of each county of the State and returned to the Secretary of State at the same time and in like manner as they shall transmit other records and returns required by this law.

Canvass and Abstract of Votes.—On the third day after the close of any primary nominating election, or sooner if all the returns be received, the county clerk, taking to his assistance two justices of the peace of the county, of different political parties, if practicable, shall proceed to open said returns and make abstracts of the votes. Such abstracts of votes for nominations for Governor and for Senator in Congress shall be on one separate sheet for each political party and shall be immediately transmitted to the Secretary of State in like manner as other

1 For this section in full see Appendix "B."

2 For this section see *ante*, paragraph entitled "Counting the Vote," page 55.

election returns are transmitted to him. Abstracts of votes for nominations of each political party for offices to be voted for in the State at large and in districts composed of one or more counties, shall be on a sheet or sheets separately from each political party, and shall be forthwith transmitted to the Secretary of State as required by Section 3378.[1] The abstracts of votes for county and precinct offices shall be on another sheet or sheets separately for each political party; and it shall be the duty of said clerk immediately to certify the nomination for each party and enter upon his register of nominations the name of each of the persons having the highest number of votes for nomination as candidates for county and precinct offices, respectively, and to notify by mail each person who is so nominated; provided, that when a tie shall exist between two or more persons for the same nomination by reason of said two or more persons having an equal and the highest number of votes for nomination by one party to one and the same office, the clerk whose duty it is to compare the polls shall give notice to the several persons so having the highest and equal number of votes to attend at the office of the county clerk, at a time to be appointed by said clerk, who shall then and there proceed publicly to decide by lot which of the persons so having an equal number of votes shall be declared nominated by his party; and said clerk shall forthwith enter upon his register of nominations the name of the person thus duly nominated in like manner as though he had received the highest number of votes of his party for that nomination. And it shall be the duty of the county clerk of every county, on the receipt of the returns of any general primary nominating election, to make out his certificate stating therein the compensation to which the judges and clerks of election may be entitled for their services and lay the same before

1 The following section, entitled, "Abstracts sent to Secretary of State—Canvass by State Officers."

the county court at its next term, and the said court shall order the compensation aforesaid to be paid out of the county treasury. In all primary nominating elections in this State, under the provisions of this law, the person having the highest number of votes for nomination to any office shall be deemed to have been nominated by his political party for that office.

Abstracts Sent to Secretary of State—Canvass by State Officers.—The county clerk, immediately after making the abstracts of votes given in his county, shall make a copy of each of said abstracts and transmit it by mail to the Secretary of State at the seat of government; and it shall be the duty of the Secretary of State, in the presence of the Governor and the State Treasurer, to proceed within 30 days after the primary nominating election, and sooner if all returns be received, to canvass the votes given for nomination for all officers to be voted for by the people of the State or of any district embracing one or more counties; and the Governor shall grant a certificate of nomination to the person having the highest number of votes for each office and shall issue a proclamation declaring the nomination of each person by his party. In case there shall be no choice for nomination for any office by reason of any two or more persons having an equal and the highest number of votes of his party for nomination for either of said offices, the Secretary of State shall immediately give notice to the several persons so having the highest and equal number of votes to attend at the office, either in person or by attorney, of the Secretary of State, at a time to be appointed by said Secretary, who shall then and there proceed to publicly decide by lot which of the persons so having an equal number of votes shall be declared duly nominated by his party; and the Governor shall issue his proclamation declaring the nomination of such person or persons as above provided.

Correction of Errors or Wrongful Acts by Courts.—Whenever it shall appear by affidavit to the county court or judge thereof, or to the circuit court or judge thereof, that an error or omission has occurred or is about to occur in the printing of the name of any candidate or other matter on official primary nominating election ballots, or that any error has been or is about to be committed in the printing of the ballots, or that the name of any person or any other matter has been or is about to be wrongfully placed upon such ballots, or that any wrongful act has been performed or is about to be performed by any judge or clerk of the primary election, county clerk, canvassing board or member thereof, or by any person charged with a duty under this act, or that any neglect of duty by any of the persons aforesaid has occurred or is about to occur, such court or judge shall by order require the officer or person or persons charged with the error, wrongful act or neglect, to forthwith correct the error, desist from the wrongful act, or perform the duty and do as the court shall order, or show cause forthwith why such error should not be corrected, wrongful act desisted from, or such duty or order performed. Failure to obey the order of any such court or judge shall be contempt. Any person in interest or aggrieved by the refusal or failure of any person to perform any duty or act required by this law shall without derogation to any other right or remedy be entitled to pray for a mandamus in the circuit court of appropriate jurisdiction, and any proceeding under the provisions of this law shall be immediately heard and decided.

Messenger To be Sent for Delayed Returns.—If the returns and abstracts of the primary nominating election of any county in the State shall not be received at the office of the Secretary of State within 20 days after said election, the Secretary of State shall forthwith send a messenger to the county court of

such county, whose duty it shall be to furnish said messenger with a copy of said returns, and the said messenger shall be paid out of the county treasury of such county the sum of 20 cents for each mile he shall necessarily travel in going to and returning from said county. The county clerk, whenever it shall be necessary for him to do so in order to send said returns and abstracts within the time above limited, may send the same by telegraph, the message to be repeated, and the county shall pay the expense of such telegram.

Penalty for Wrongful Acts by Officers.—If any judge or clerk of a primary nominating election, or other officers or persons on whom any duty is enjoined by this law, shall be guilty of any willful neglect of such duty, or of any corrupt conduct in the discharge of the same, such judge, clerk, officer or other person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one year nor more than five years, or by imprisonment in the county jail not less than three months, nor more than one year, or by fine not less than $100 nor more than $500.

Notice of Contest.—Any person wishing to contest the nomination of any other person to any State, county, district, township, precinct or municipal office, may give notice in writing to the person whose nomination he intends to contest that his nomination will be contested, stating the cause of such contest briefly, within five days from the time said person shall claim to have been nominated.

How Served and Hearing Thereon.—Said notice shall be served in the same manner as a summons issued out of the circuit court, three days before any hearing upon such contest as herein provided shall take place, and shall state the time and place that such hearing shall be had. Upon the return of said

notice served to the clerk of the county, he shall thereupon enter the same upon his issue docket as an appeal case, and the same shall be heard forthwith by the circuit court; provided, that if the case can not be determined by the circuit court in term time, within 15 days after the termination of such primary nominating election, the judge of the circuit court may hear and determine the same at chambers forthwith, and shall make all necessary orders for the trial of the case and carrying his judgment into effect; provided, that the circuit court provision of this section shall not apply to township or precinct officers. In case of contest between any persons claiming to be nominated to any township or precinct office, said notice shall be served in the manner aforesaid, and shall be returned to the county court of the county.

Procedure in Contests.—Each party to such contest shall be entitled to subpœnas, and subpœnas *duces tecum*, as in ordinary cases of law; and the court shall hear and determine the same without the intervention of a jury, in such manner as shall carry into effect the expressed will of a majority of the legal voters of the political party, as indicated by their votes for such nominations, not regarding technicalities or errors in spelling the name of any candidate for such nomination; and the county clerk shall issue a certificate to the person declared to be duly nominated by said court, which shall be conclusive evidence of the right of said person to hold said nomination; provided, that the judgment or decision of the circuit court in term time, or a decision of a judge thereof in vacation, as the case may be, may be removed to the Supreme Court, in such manner as may be provided for removing such causes from the circuit court to the Supreme Court; and provided further, that appeals may be taken from the decision of the county court to the circuit court, in all of which cases the party removing any such judgment or decision by appeal, shall file in the proper court a

bond to the opposite party, in such sum and with such sureties as shall be prescribed by a judge thereof, conditioned for the payment of all costs that may be properly taxed against them; and provided further, that on any such appeal it shall be advanced on the docket and heard and decided on appeal soon enough to place the name of the successful contestant on the official white ballot as such nominee at the ensuing election, and said courts shall make the necessary rules to accomplish this result.

Statement of Party on Registration.—In addition to the facts to be stated by the elector and registered by the provisions of Sections 3448,[1] 3449,[1] and 3453,[1] every elector shall be asked by the clerk or other registering officer of what political party or voluntary political organization he is a member, and it shall be the elector's duty to answer said question if he wishes to take part in making the nominations of any political party, and his answer shall then and there be entered in the register in the column headed "remarks," and such answer shall also be a part of the affidavit entitled "Oregon registration blank A," when such blank is used in the registration. If the elector shall answer that he is not a member of any political party or voluntary political organization, the clerk or registering officer shall enter the fact in said column headed "remarks," and in said affidavit when the same is used, and if he shall decline to answer, the officer shall enter such refusal. In entering the answer in the register as to the political party or affiliation of the elector, it shall be sufficient to designate the political party by the first syllable of the first word of its name, as Rep. for Republican, Dem. for Democrat, Soc. for Socialist, Pro. for Prohibition, Ind. for Independent, and Non. for nonpartisan or no party. No elector shall be qualified to vote, nor permitted to vote at any such

1 For this section in full see Appendix "B."

primary nominating election required by this law, and it shall be unlawful for him to offer to do so, unless he shall be registered as above required as a member of one of the political parties choosing and nominating its candidates for public office under the provisions of this law at such primary nominating election. Every qualified elector offering to vote at any such primary nominating election shall be given a ballot of the political party with which he is registered as a member as above required, and he shall not be given a ballot of any other political party at that primary nominating election; provided, that nothing in this law shall be construed to deprive any elector of the right to register and vote at any primary nominating election required by this law, on his complying with the special provisions of this law, in the same manner that he is permitted by the general laws to register and vote at a general election.

Election and Duties of Party Committees.—There shall be elected by each political party subject to this law at said primary nominating election a committeeman for each election precinct, who shall be a resident of such precinct. The committeeman thus elected shall be the representative of his political party in and for such precinct in all ward or subdivision committees that may be formed. The committeeman elected in each precinct in each county shall constitute the county central committee of each said respective political parties. Those committeemen who reside within the limits of any incorporated city or town shall constitute *ex officio* the city central committee of each of said respective political parties, and shall have the same powers and jurisdiction as to the business of their several parties in such city matters that the county committee has in county matters, save only the power to fill vacancies in said committee, which power is vested in the county central committee. Each committeeman shall hold such position for the term of two years from the date of the first meeting of said

committee immediately following their election. In case of a vacancy happening on account of death, resignation, removal from the precinct, or otherwise, the remaining members of said county committee may select a committeeman to fill the vacancy and he shall be a resident of the precinct in which the vacancy occurred. Said county and city central committees shall have the power to make rules and regulations for the government of their respective political parties in each county and city, not inconsistent with any of the provisions of this law, and to elect the county members of the State central committee and of the Congressional committee, and said committees shall have the power to fill all vacancies and make rules in their jurisdiction that the county committee has to fill county vacancies and make rules. Said county and city central committees shall have the power to make nominations to fill vacancies occurring among the candidates of their respective parties nominated for city or county offices by the primary nominating election, where such vacancy is caused by death or removal from the electoral district, but not otherwise. Said committees shall meet and organize by electing a chairman and secretary within five days after the candidates of their respective political parties shall have been nominated. They may select managing or executive committees and authorize such subcommittees to exercise any and all powers conferred upon the county, city, State, and Congressional central committees respectively by this law.

Penalty for Wrongful Acts by Candidates.—If any candidate for nomination shall be guilty of any wrongful or unlawful act or acts at a primary nominating election which would be sufficient, if such wrongful or unlawful act or acts had been done by such candidate at the regular general election, to cause his removal from office, he shall, upon conviction thereof, be removed from office in like manner as though such wrongful or unlawful act or acts had been committed by him at a regular general

election, notwithstanding that he may have been regularly elected and shall not have been guilty of any wrongful or unlawful act at the election at which he shall have been elected to his office.[1]

The Direct Primary Law in Practice.—It was earnestly urged by the opponents of the Direct Primary Law during the campaign for its adoption that only the incompetent and egotistical would seek to nominate themselves for office. At the first primary election held after the law became effective, the names of many unworthy and incompetent candidates appeared on the ballot. These names appeared to the exclusion of many who would be willing to accept office, who possessed the ability to perform the duties of the various offices and yet who disliked self-nomination. The people generally used good judgment at this first election and the sycophant, professional politician, and bombastic nominee found out their standing in the community. The votes cast for such people were indeed small in number. Good men were selected and from that time on the primary ballot has not been burdened with a swarm of drones. To be sure, pin heads and effervescent fizzers occasionally summon themselves to nominate themselves, but the stamp of popular disapproval of their candidacy is invariably placed upon their petty ambitions. At present, those who aspire to office, however modest and sensitive they may be, follow the provision of the Direct Primary Law without compunction. Justices of the Supreme Court cause their petitions for nomination to be circulated without feeling that they are committing a breach of ethics.

1 Provisions of Election Law Applicable.—The act refers to a number of sections of the general election law and makes them applicable to the Direct Primary Law so far as they do not conflict with it. The sections, the knowledge of which is necessary to the full understanding of the Direct Primary Law, are set forth in Appendix "B"; the others are omitted.

Members of the minority party have at times registered as belonging to the majority party in order to help out a candidate at the primary election. This practice has been strongly condemned by the press and people generally. Too much importance has been given to this subject. While the Direct Primary Law sets forth in its preamble that "political parties are useful and necessary at the present time," the time is not far distant when political parties within a State of the Union will be eliminated.

The Direct Primary Law destroyed the corrupt convention system. The importance of this result can not be overestimated. Before its adoption, the rule of the party boss was supreme. He selected his minions and servants and made them members of the nominating convention. The boss-ridden conventions apportioned the various offices among the friends and fellow political pirates of the boss. Nowhere in the system was there a place for calm deliberation. The people saw these things but were powerless to remedy the condition. In the Direct Primary Law they found the weapon which has served to destroy forever the corrupt convention in the State of Oregon.

CHAPTER V.

THE RECALL.

Enactment.—The recall amendment to the Constitution was submitted by initiative petition to the vote of the electors at the regular election held in the State of Oregon on June 1, 1908. There were 58,381 votes cast for the amendment and 31,002 votes cast against it. By virtue of the proclamation of the Governor, the amendment became effective June 23, 1908.

Text of the Recall.—

ARTICLE II.

Sec. 18. Every public officer in Oregon is subject, as herein provided, to recall by the legal voters of the State or of the electoral district from which he is elected. There may be required 25 per cent, but not more, of the number of electors who voted in his district at the preceding election for Justice of the Supreme Court to file their petition demanding his recall by the people. They shall set forth in said petition the reasons for said demand. If he shall offer his resignation, it shall be accepted and take effect on the day it is offered, and the vacancy shall be filled as may be provided by law. If he shall not resign within five days after the petition is filed, a special election shall be ordered to be held within twenty days in his said electoral district to determine whether the people will recall said officer. On the sample ballot at said election shall be printed in not more than two hundred words, the reasons for demanding the recall of said officer as set forth in the recall petition, and in not more than two hundred words, the officer's justification

of his course in office. He shall continue to perform the duties of his office until the result of said special election shall be officially declared. Other candidates for the office may be nominated to be voted for at said special election. The candidate who shall receive the highest number of votes shall be deemed elected for the remainder of the term, whether it be the person against whom the recall petition was filed, or another. The recall petition shall be filed with the officer with whom a petition for nomination to such office should be filed, and the same officer shall order the special election when it is required. No such petition shall be circulated against any officer until he has actually held his office six months, save and except that it may be filed against a Senator or Representative in the legislative assembly at any time after five days from the beginning of the first session after his election. After one such petition and special election, no further recall petition shall be filed against the same officer during the term for which he was elected unless such further petitioners shall first pay into the public treasury which has paid such special election expenses, the whole amount of its expenses for the preceding special election. Such additional legislation as may aid the operation of this section shall be provided by the legislative assembly, including provision for payment by the public treasury of the reasonable special election campaign expenses of such officer. But the words, "the legislative assembly shall provide," or any similar or equivalent words in this constitution or any amendment thereto, shall not be construed to grant to the legislative assembly any exclusive power of law-making nor in any way to limit the initiative and referendum powers reserved by the people.

The Recall in the Courts.—The recall has never been interpreted by the Supreme Court of the State of Oregon. One case was appealed to that tribunal from Wasco County but it was

dismissed before final hearing.[1] The county clerk of Wasco County refused to issue a call for a special election for the purpose of voting on the recall of the county judge and the two county commissioners of Wasco County, Oregon. During the court proceedings, the terms of those against whom the recall was directed expired. The principal point raised in this case was whether or not the amendment is self-executing, *i. e.*, complete within itself. If it were determined to be self-executing, then elections under the law might be called; if held to be not self-executing, then additional legislation would be necessary to provide a method for using and exercising the powers conferred by the recall amendment.

The Recall in the City of Portland.—The recall was early used in the city of Portland. This is the largest city in the State of Oregon and its population at the time of the recall election was about a quarter of a million. Mr. J. T. Ellis was elected councilman from the Tenth Ward in the city of Portland at the regular city election. Many believed he stood no show to be elected and his qualifications for office were not the subject of general discussion. These people, many of whom were active in the political affairs of the city, were greatly shocked and surprised to learn from the returns that Mr. Ellis had been elected. From the start of his career as a councilman, these people were opposed to him. After the council was duly organized, it acted for a time with practical unanimity. As time went on, factional differences arose and the council split in two. Mr. Ellis sometimes voted with one faction and sometimes with the other. Being of a radical turn of mind, many ordinances proposed by him caused dissatisfaction and further incensed those who claimed he was there by accident and was unfit for the position.

[1] The title of this case is: The State of Oregon on the relation of Geo. A. Harth, Respondent, v. Frank R. Angle, County Clerk of Wasco County, Oregon, Appellant.

Sometimes irritating one faction and sometimes offending the other, after a time Mr. Ellis incurred the ill will of both. Some of these men desired to encompass his defeat. The recall was the means employed to retire Mr. Ellis to private life.

It must be noted in this connection that the recall was used purely as a political weapon. The people who worked up sentiment against Mr. Ellis were not the great body of his constituents. On the contrary, the politicians started the movement and carried the campaign to the voters of the Tenth Ward.

Petitions for the recall were circulated and signatures obtained by the use of any argument which might serve to obtain the required names. Mr. Ellis' private acts, as well as his public acts as a councilman, were urged against him to secure signatures to the petition. On May 13, 1911, the petition, with the requisite number of names signed thereto, was filed. The charges against Mr. Ellis, as set forth in the petition, are general. Failure to represent faithfully and efficiently the people of the Tenth Ward of the city of Portland was the reason given for demanding his recall.

The election was called for June 5, 1911. Candidates against Mr. Ellis were legion. The following named gentlemen ran for councilman against Mr. Ellis at the election: Clinton A. Ambrose, Frank B. Harrington, James Maguire, Will G. Steel and D. G. Stephens. Three votes were cast for another citizen of the Tenth Ward whose name did not appear upon the ballot.

The campaign created some excitement, but it was confined mostly to the two groups of men who were directly interested. On the one side was the group who desired to defeat Mr. Ellis; on the other side were Mr. Ellis and his faithful friends, who were striving to stay the recall movement. The election was held June 5, 1911, and resulted as follows:

James Maguire.....1185
Joseph T. Ellis.....1163
Clinton A. Ambrose.....1058
D. G. Stephens..... 311
Frank B. Harrington..... 293
Will G. Steel..... 232

Mr. Ellis was thus recalled by a very small plurality.

The Recall in Klamath County.—The recall was invoked against William S. Worden, county judge of Klamath County. The petitions containing the required number of names were regularly filed and the county clerk called the election for June 2, 1913. Two candidates were placed in the field against the judge. One of these polled few votes and his part in the campaign was negligible. The principal reason for resorting to the recall was the court's decision to build a new court house upon a site some distance from the old building in the town of Klamath Falls, the county seat. Some of the older residents who were opposed to the change were instrumental in instituting and promoting the recall. Other charges were made and the campaign against the recall was conducted by Judge Worden with vigor and energy. He stumped the county and everywhere awakened the people to a full realization of the meaning of the election. The charges brought against the judge as set forth in the petition and on the sample ballot are as follows:

Unlawful, unwise and inefficient management of county finances; the incurring of a large amount of unlawful indebtedness; unnecessarily increased taxation; waste of money in county expenses; favoritism in contracting with and employing relatives of members of the county court and certain firms and corporations at a financial loss to the county; unlawful issuing and selling warrants of the county at a discount; carelessness and inefficiency in auditing bills against the county; accepting

employment from corporations whose interests are opposed to the public interests and at far greater salaries than that paid by the county; inefficient and unsatisfactory service as a county judge; failure to get value received for money spent for roads, though petitioners are not opposed to good roads; lack of ability, as shown in the past, to expend future levies for roads; inability to construct a new courthouse with economy and a due regard for cost, though petitioners are not opposed to the new courthouse and are indifferent as to its location, but only insist that it shall be built economically and that the cost shall not be excessive, which the past actions of said officer indicate that he will not be able to do.

To these charges, the judge replied on the sample ballot as follows:

This is not a regular election. It is an attempt to remove me from office in the middle of my term.

Two years ago you elected me on a basis of Good Roads and the building of a new courthouse on the Hot Springs site. I have kept my promises. The work has been done well and as cheaply as consistent with permanency. What has been done will not have to be done over again.

The new courthouse has been built economically and well. We have saved money for you in our plan.

I deny the accusations of the opposition on the ground that they are gross misrepresentations and intended to cloud the issue and fool the voter. No other county in the state has accomplished so much in the way of good roads. The men who are behind this recall have threatened me ever since my term of office began unless I would submit to their dictation.

The Grand Jury report was not correct and has been so proven relative to culvert, harness and other matters. If wrong in some, wrong in others. All I want is a square deal. The opposition will not give it.

With the exception of one paper, the press of the county was against the recall. This one paper was acquired by friends of Judge Worden before the campaign closed. The election was held pursuant to notice on June 2, 1913. The vote stood as follows: J. R. Ritter 56, Frank Ira Wade 974, and Wm. S. Worden 2286. By their votes, the people sustained the county judge and registered an emphatic protest against the recall movement.

The Recall in Clackamas County.—Petitions for the recall of County Judge R. B. Beatie and Commissioner N. Blair were circulated by volunteers in Clackamas County, Oregon, during the month of July, 1913. The required number of signatures were secured and the county clerk called the election for August 16, 1913. The charges brought against these officials as set forth in the petition and upon the sample ballot were as follows:

That the said R. B. Beatie (N. Blair) in the conduct of his office as County Judge (County Commissioner) has been careless and extravagant in the management of the county business, and in proof we cite the following facts:

(1) That the sum of $350.00 was paid for an examination and report on the condition of the Oregon City Suspension Bridge without inviting competition.

(2) That the bridge across Clear Creek at Stone was destroyed and replaced by a new steel bridge, which was wholly uncalled for, as the old bridge was in good condition when destroyed. All it needed was new piers and a few minor repairs at slight expense.

(3) That many steel bridges were built without due publicity and without asking for competitive bids.

(4) That a contract was entered into with a Portland timber cruising company to cruise the timber of Clackamas County at the rate of $51.20 per section, without giving any notice to the public that such a contract was to be let.

(5) That said R. B. Beatie (N. Blair) as a member of the County Court has not complied with Section 6278[1], Lord's Oregon Laws.

Judge Beatie and Commissioner Blair answered these charges specifically and fully in the press. They also answered the charges in the number of words allotted each under the recall amendment on the sample ballot. The answer of Judge Beatie on the sample ballot was as follows:

The $350.00 paid for examination of suspension bridge was necessary expenditure and was money well spent, as has been proven by result of repairs; to have spent the time necessary to advertise for bids under conditions would have been criminal neglect, and would have endangered the lives of thousands of people who are compelled to cross the bridge daily. Had an accident happened on this bridge the county would have been liable.

The bridge across Clear Creek was necessary and charge that old bridge was in good condition is false; that the court acted entirely within the law in building all bridges; that the same procedure has been followed in building bridges that has been followed by our predecessors and by large majority of the counties of this State.

We have complied with Section 6278[1] of Lord's Oregon Laws and challenge our accusers to show to the contrary.

1 Section 6278, Lord's Oregon Laws, is as follows:

All county roads shall be under the supervision of the county court of the county wherein the said road is located; and no county road shall be hereafter established, nor shall any such road be altered or vacated in any county in the state, except by the authority of the county court of the proper county; and each county court within this state shall have the authority, and it shall be its duty, to supervise, control, and direct the working, laying out, opening, and keeping in repair of all county roads within its county, and to prescribe the methods and manner of working the same; to supervise the construction and repair of all bridges on the county roads, and to remove any supervisor for incompetency or disobedience to the orders of said court. The powers herein given may be exercised directly by the court, or through some one of its members designated for that purpose.

We deny charge of extravagance and in proof thereof cite voters to financial condition of the county. The records show the county in the best financial condition in its history. The charge of extravagance is not supported by facts. I approve statement of Commissioner Blair and make it part of my justification.

Commissioner Blair made answer as follows:

I approve statement of Judge Beatie in all particulars and refer to it as a part of my justification.

The timber cruise is completed and the benefits derived therefrom far exceed our expectations. The law does not require the court to advertise for bids in matters of this kind. We employed a cruiser who was recommended by Chief Justice The Honorable Thos. A. McBride, and many other reliable and honorable men. A cruise was furnished the assessor's office something over six years ago by a large timber corporation, and their timber assessed on the basis of the cruise. These assessments show the county has lost $34,429.28 in the past six years, an amount about equal the total cost of the cruise. This showing on timber land of one company; the same result will be shown on other timber companies. The increased taxes accruing from cruise will amount to $30,000.00 or $40,000.00 per annum. This proves unreliability of cruise of timber companies.

We deny the charges of the opposition on the grounds that they are false and malicious and intended to mislead the voters. We invite an examination of the county records by honest voters who desire to know the truth.

The campaign was conducted with unwonted energy and vigor on both sides. Many charges not included in those filed were made against the county judge and commissioner. Judge Beatie and Commissioner Blair stumped the county answering the charges and vigorously assailed those who were promoting the

recall. On the other hand, those favorable to the recall carried on a strenuous campaign throughout the county. Mr. H. S. Anderson was nominated on the recall ticket for county judge, and J. W. Smith for commissioner. Mr. Anderson did little campaigning, appearing on the stump but a few times. Mr. Smith appeared more frequently, usually with a number of other speakers who were advocating the recall of the county officials. The press, outside of the papers published in Oregon City, the county seat, was neutral. The two papers published in Oregon City were ranged one against the other. One paper defended the county officials and opened its columns to them and their friends; the other paper attacked the incumbents with an abandon seldom seen in political campaigns. From the zeal and enthusiasm aroused on both sides in this campaign, the public generally looked forward to a heavy vote on August 16, 1913. Quite the contrary happened. The vote cast was extremely light. Many people living near the polls and who had but a few feet to walk to cast a vote neglected to do so. The vote resulted as follows:

For County Judge,
R. B. Beatie.....2335
H. S. Anderson.....2831
For County Commissioner,
N. Blair.....2362
J. W. Smith.....2774

At the time of this election those entitled to vote in the county numbered about 14,000. Of this number a little more than 5000 voted. The county officials were thus recalled by a minority.

The Recall in Hood River County.—The chief reason for demanding the recall of the county judge and the two county com-

missioners in Hood River County was the method of constructing a bridge across Hood River near Winans place and known generally as Winans Bridge. The circulators of the petitions for the recall of their officials used photographs of Winans Bridge. The Taxpayers' League who supported the county officials declared these pictures were especially posed. Those against whom the recall was directed were: Geo. R. Castner, county judge, and Geo. A. McCurdy and J. R. Putnam, county commissioners. The recallers nominated the following candidates: For county judge, E. E. Stanton; for county commissioners, Ed. Hawkes and J. O. Hannum.

The campaign was lively from the start. The county court was strongly backed by the Taxpayers' League. The press was unanimously against the contention of the recallers. Several of the leading papers published at the county seat refused to open their columns to the recallers.

The charges preferred against County Judge Castner were:

The employment of C. K. Marshall as road master at $5.00 per day and from $2.50 to $7.50 per day additional for the use of automobile while working for the county as road master; paying C. K. Marshall $40.00 for inspecting Tucker's bridge, and paying the following unitemized bills of C. K. Marshall:

HOOD RIVER, OREGON, June 5th, 1913.

Hood River County. Dr. to C. K. Marshall, road master,

Services as County road master

in April, 1913, 9 da.....$ 67.50

do May, 1913, 20 da..... 150.00

$217.50

C. K. MARSHALL.

HOOD RIVER, OREGON, June 5th, 1913.

Hood River County. Dr. to C. K. Marshall.

Mar.	17—	Rent of auto for County Court	$12.50
	18—	do	12.50
	22—	do	12.50
	24—	do	12.50
Apr.	15—	do	12.50
	18—(½ da)	do	6.25
May	23—	do	12.50
			$81.25

C. K. MARSHALL.
HOOD RIVER, OREGON.

Hood River County. To C. K. Marshall, Dr.

Services 23 days month of June.....$172.50

These bills make up the item of $471.25 set out in the recall petition.

Judge Castner's justification in office as set forth in the sample ballot was as follows:

In 1912 C. K. Marshall was employed by the county court to superintend the construction of Tucker's Bridge. He actually put in 8 days' time as superintendent and at labor on said bridge and received the sum of forty dollars therefor. His services were considered satisfactory and have never been questioned.

During 1913 Murray Kay, W. L. Clark and C. K. Marshall were official county road viewers. The item of "$33.85 for viewing roads," mentioned in the recall petition, constituted the fees fixed by law to be received by Marshall for such service, during which time Kay and Clark received like statutory fees. While acting as such road viewer Marshall received no pay as road master.

In February, 1913, the law providing for a county road master, the county court, considering Mr. Marshall thoroughly competent, appointed him to the position, his pay to be $5.00 per day, and $2.50 per day for automobile service (and not $7.50 as falsely stated in the petition), for the time actually employed.

The reasons for demanding the recall of Commissioner Geo. A. McCurdy were:

The same as those given above by E. E. Stanton and for the further reasons that the said County Judge Geo. R. Castner and Commissioners Geo. A. McCurdy and J. R. Putman permitted a wagon bridge to be improperly constructed across Hood River (near Winans place) and paying $1730.28 for the construction of said bridge, which was built in a grossly negligent and careless manner, and is dangerous and unsafe for traffic.

Commissioner McCurdy's answer to the recall charges as set forth on the sample ballot was:

I fully confer in Judge Castner's statement above, and further say:

The Winans bridge was let to the lowest responsible bidder. O. H. Rhoades was employed to superintend construction. On account of the topography of the ground and the course of the river, it was found necessary to throw the west pier 16 feet south, and the east pier north, in order not to place the piers of the long span in the river where they would be subject to wash, and permit of a 90 foot span instead of a 117 foot span as provided in the original survey; and it was this change, to shorten the span and preserve the piers, that caused the angle in the bridge. Competent engineers and practical bridge builders who have examined the bridge pronounce it perfectly safe for traffic.

The Grand Jury in July, 1913, called attention to a few payments of claims against the county upon accounts not itemized. Since that date all bills have been required to be itemized.

The reasons for demanding the recall of Commissioner J. R. Putnam as set forth on the sample ballot follows:

The same reasons as those given above by E. E. Stanton and Ed. Hawkes and for the further reasons that the said Geo. R. Castner, Geo. A. McCurdy and J. R. Putnam have unnecessarily expended heavy sums of money for improperly oiling roads.

Allowing and paying unitemized claims against the county. (Extract from Grand Jury report under date of July, 1913): "We find that the bills presented against the county are not as a rule itemized as to articles, labor performed, time or dates, and we therefore recommend that all bills presented against the county be itemized."

Commissioner Putnam's answer to the above charges as set forth on the sample ballot was as follows:

I fully concur in and endorse the statements of Judge Castner and Commissioner McCurdy above, and further say:

Oiling macadam roads in 1912 cost $193.69 per mile; in 1913, $186.00 per mile. Last year it required 4 weeks to distribute the oil, this year one week. Last year the oiling was a failure and the roads were damaged; this year the oiling is a success and the roads have been preserved.

In addition to all of the above answers to the particular charges made, attention is called to the following figures:

	County General Fund.	General Road Fund.
Nov. 1, 1911.....	$3375.72 overdrawn	$1134.10 overdrawn
Nov. 1, 1912.....	1250.50 on hand	3496.72 overdrawn
Oct. 23, 1913.....	7200.18 on hand	9630.03 on hand

A great deal of interest was aroused in this election. The newly enfranchised women took an active part and many of them sat on the election boards in the various precincts of the county. The election was held November 4, 1913, and resulted as follows:

For County Judge,
- E. E. Stanton.....988
- Geo. R. Castner.....861

For County Commissioner,
- Ed. Hawkes.....966
- Geo. A. McCurdy.....853
- J. O. Hannum.....945
- J. R. Putnam.....875

The entire court by a small majority was thus recalled.

The Recall in the City of Salem.—On November 3, 1913, a recall election was held in the city of Salem. Aldermen Hatch and Stolz were the two whose recall was demanded. Some of the official acts of these two men were the real reason for circulating the recall petitions, but the charge against them was their alleged failure to faithfully represent their constituents. There was nothing in the official conduct of these men to substantiate the charge made in the recall petition. The people sustained their aldermen and the recall was a failure.

The Recall in the City of Medford.—Medford is a thriving town of about 9,000 inhabitants, situated in the southern part of the State of Oregon. The progress made by this city during the past decade has been remarkable. The temper of the people is essentially progressive. The official acts of two of the city's councilmen were strongly disapproved by many of the leading citizens. This feeling against the two councilmen increased until it crystallized into a recall movement against them. The regular city election was held January 13, 1914, and prior to this date recall petitions had been circulated, signed and filed, and a recall election called for the date of the city election. The councilmen whose official acts were condemned were: G. H. Millar, councilman from the Third Ward, and J. E. Stewart, councilman from the Second Ward. To oppose G. H. Millar, the organization carrying on the recall campaign nominated Dr. H. P. Hargrave. To run against Councilman J. E. Stewart, the organization nominated Mr. V. J. Emerick.

Of all the recall elections held in the State of Oregon, this one in the city of Medford was probably the most exciting. Every voter within the corporate limits of the city was thoroughly alive to the issues involved. The newly enfranchised women played a prominent part in this election and the result may be ascribed, in great part, to their participation in the election.

The reason for demanding the recall of G. H. Millar as set forth on the sample ballot was:

That the said G. H. Millar does not truly represent the residents of said (Third) Ward and because of his general incompetence and extravagance in office.

To this charge, Councilman Millar replied upon the sample ballot as follows:

The recall charges of general incompetence, extravagance and not truly representing the residents of the Third ward, are both untrue and ridiculous, as a just investigation of the city records will prove.

The charge of general incompetence and extravagance in office was also made against Councilman J. E. Stewart and given as the reason for demanding his recall. To this charge J. E. Stewart replied as follows upon the sample ballot:

One year ago the electors of my ward elected me to the office of councilman and I assumed the duties of that office in entire good faith and with a purpose on my part to perform those duties to the best of my ability and with a due regard to the welfare of my City. This purpose, I have performed; many accusations have been made as to misconduct in my official position, but no official act of mine has been pointed to as being a violation of my duties, or of my oath of office.

If I have erred, it is an error of judgment; no person is infallible. If I should be recalled by the citizens of my ward, there can be no certainty of perfection of official conduct in my successor. He, too, may be fallible as myself.

Should a man be recalled from an official position he occupies because somebody is piqued by his conduct or differs in judgment from him? Such a result is substantially a conviction, without trial, and a judgment without a preferred charge.

I ask the suffrages of my fellow citizens in my behalf.

The recall was successful and both councilmen were recalled. The vote by which Mr. Millar was deposed stood as follows:

Millar 244, Hargrave 283. Councilman Stewart received 300 and his opponent 368 votes.

The Recall Generally.—In the preceding paragraphs specific instances of the use of the recall have been set forth. It will be noted that the highest office involved in these various elections has been that of county judge. The county judge in the State of Oregon, outside of Multnomah County, sits as a probate judge and also has jurisdiction in juvenile cases. He also sits as a member of the board of county commissioners. This board is the general disbursing agency of the county. It is its duty to keep up the county roads and bridges and, in short, act for the county generally in all kindred matters. It is a difficult position to fill without making enemies. The county judges, who have run the gauntlet of the recall, have been attacked for their acts performed while sitting as a member of the board of county commissioners.

The recall has been used at times without sufficient reason. Since its enactment it has been used frequently, and with the lapse of time it will be invoked more often. Different officials have been threatened with the recall. A circuit judge was threatened with the recall because of his charge in a murder trial; a sheriff was threatened with the recall because of his vigorous suppression of a street speaking nuisance; an assessor has been threatened with the recall because he dared to do his duty and list property for taxation which many thought exempt.

The recall can not take the place of impeachment trials. Charges are preferred against an official under the recall amendment, but the campaign is a general campaign to defeat the incumbent by the use of any political device or charge. Quite often the charges preferred are ignored and title to office is tried with the people as judges by the introduction of any evidence which might be urged in an unrestricted political campaign.

To give those against whom the recall is invoked a fair trial, all of the people should be compelled to vote. A man's right to hold office should not be determined by a minority. It is not enough that the opportunity to pass upon a man's official acts should be given. He is entitled to have his right to hold office passed upon by the entire jury of qualified voters.

CHAPTER VI.

COMMENT.

General Remarks.—The frequent use of the initiative in State, county and city has brought a whirl of elections. One distinguished authority has intimated "tyranny of elections" for the people of the State of Oregon unless some means is found to check the abuse of the initiative. An election every few months has deadened the political conscience of the voter and he cares not whether he participates. This has led to a condition of affairs where the principle so often reiterated—Rule of the Majority—has been set aside and we witness in actual practice the Rule of the Minority.

At a recent special election held in the city of Portland, matters of great importance to the residents of that city were passed upon at the polls and decided by a minority. A short time prior to this city election, the citizens of this State were called upon to adopt or reject five acts of the legislature. About one-third of those qualified to vote went to the polls.

The people are, in part, to blame for this condition. They sign the petitions to place an initiative measure upon the ballot without taking the trouble to learn what the proposed measure is. This neglect of political duty makes it easy for a person, combination of persons, league or clique to load down the ballot with whimsical and useless measures. If the citizen is tired of elections let him remove the cause of elections for initiative measures. The initiative should be regarded as an extraordinary piece of political machinery to be set in motion only in cases of emergency.

Unless the legislature sets a time for a special election at which all referred bills are to be voted upon, such of its acts as are

referred by petition of the people are held in suspension until the next regular election—a period of nearly two years. In 1913, for the first time, the legislative assembly called a special election at which all referred bills were passed upon. Prior to that year many bills had been referred and held inoperative for the period of time above stated. If the initiative should be considered an extraordinary political remedy a greater reason exists for so regarding the referendum. A bill referred upon petition of the people has already been considered and approved by the legislature and Governor. This being so, no bill should be thus referred unless there is a great probability that the judgment of the legislature and Governor was erroneous.

As a matter of fact the people do not discriminate between initiative and referendum measures. They sign any petition without hesitation. For this reason, it is as easy to refer an act of the legislative assembly as it is to initiate a measure.

A New Court.—An initiative measure is not subject to veto. It becomes a law after its adoption at the polls upon proclamation of the Governor. Nowhere in the process followed to place the measure upon the ballot does it pass under the scrutiny of a judicial official. The Secretary of State acts in a ministerial capacity only. Inasmuch as many measures are inaccurately drawn and clearly contravene the provision of the Constitution, there should be some tribunal to which proposed measures could be submitted before they are enacted into law by the people. In legislative assemblies this duty is usually performed by the judiciary committee. To prevent void legislation, a court should be created by law clothed with authority to determine the constitutionality of all proposed legislative measures. This tribunal should possess no further judicial authority. The author of every initiative measure should be compelled to submit it to this tribunal before circulating petitions to have it placed upon the ballot. If declared unconstitutional, further action should be

prohibited; if declared constitutional, petitions to place the measure upon the ballot might then be circulated.

The People Versus the Legislature.—The two methods of enacting laws, through the initiative and through the legislature, might be retained if enacting laws by the initiative be regarded as an extraordinary or emergency method. There is a movement on foot to make the initiative supreme and absolute. At the regular election held on November 5, 1912, an amendment to the Constitution, which included among other provisions the abolishment of the State Senate, was submitted to the electors and defeated by a vote of 31,020 for and 71,183 against. The question of abolishing the State Senate will be on the ballot at the regular election to be held in November, 1914. Should the State Senate be abolished the next step will be the elimination of the House of Representatives. The question will then arise, Can a State of the Union have a republican form of government without a legislature? The Supreme Court of the United States has held that it has no jurisdiction to determine such a question, but holds it is for the Congress of the United States to answer. We may witness, then, within the next decade, a debate on this question by the members of the Congress of the United States.

Should a State government without a legislature be held to be a republican form of government, the city councils and boards of aldermen will go, and the initiative method of enacting laws at the polls will become absolute and supreme.

Compulsory Voting.—Minor defects in the initiative and referendum will appear from time to time. Several of these have already been pointed out. The fundamental principle that voting is a privilege and not a duty, which we recognize under the system which has been in vogue for a century in the United States, must be changed if the initiative and referendum is to fulfill its mission. Every elector in the State of Oregon is now

a member of the legislative department. The legislature and the people are each equal in legislative matters. Being a member of the popular assembly, a voter should not be permitted to shirk his duty and refuse to vote. The State should exact this duty from its citizens. In other matters, the State through its process compels its citizens to perform various duties. Jurors and witnesses are compelled to attend court. Here the citizen can not plead privilege. Were it otherwise, our judicial system would fail. There is a great deal of patriotism in Americans, but not sufficient to bring them all out to the polls. Minorities should not make laws; should not elect candidates, and should not recall officers after their election. The change in the old system of government wrought by the adoption of the initiative and referendum, direct primary and recall makes compulsory voting imperative.

Conclusion.—The initiative and referendum, direct primary law and the recall in use in the State of Oregon have not yet been fully tried out. Any criticism of these measures must be with the understanding that they are yet in their infancy and what the future holds in store for the citizens of the State of Oregon, no man can tell. This is certain: the people believe they have taken a long step forward in an attempt to make their State government more responsive to the popular will. They can not now retreat if they would, nor do they care to.

APPENDIX A.

The following is a copy of the sample ballot used at the recall election held in Klamath County, Oregon, June 2, 1913:

STUB
To be torn off by the Chairman

STUB
To be torn off by the First Clerk

Official Recall Election Ballot

For

Second Ward Precinct

Klamath County, Oregon, June 2, 1913

Mark a Cross (X) between the Number and the Name of each Candidate voted for

For County Judge	*Vote for ONE*
12 J. R. Ritter	
13 Frank Ira White	
14 Wm. S. Worden	

THE REASONS FOR DEMANDING THE RECALL OF WM. S. WORDEN, AS COUNTY JUDGE, AS SET FORTH IN SAID PETITION.

Unlawful, unwise and inefficient management of county finances; the incurring of a large amount of unlawful indebtedness; unnecessarily increased taxation; waste of money in county expenses; favoritism in contracting with and employing relatives of members of the county court and certain firms and corporations at a financial loss to the county; unlawful issuing and selling warrants of the county at a discount; carelessness and inefficiency in auditing bills against the county; accepting employment from corporations whose interests are opposed to the public interests and at far greater salaries than that paid by the county; inefficient and unsatisfactory

service as a county judge; failure to get value received for money spent for roads, though petitioners are not opposed to good roads; lack of ability, as shown in the past, to expend future levies for roads; inability to construct a new courthouse with economy and a due regard for cost, though petitioners are not opposed to the new courthouse and are indifferent as to its location, but only insist that it shall be built economically and that the cost shall not be excessive, which the past actions of said officer indicate that he will not be able to do.

JUDGE WM. S. WORDEN'S JUSTIFICATION OF HIS COURSE IN OFFICE.

This is not a regular election. It is an attempt to remove me from office in the middle of my term.

Two years ago you elected me on a basis of Good Roads and the building of a new courthouse on the Hot Springs site. I have kept my promises. The work has been done well and as cheaply as consistent with permanency. What has been done will not have to be done over again.

The new courthouse has been built economically and well. We have saved money for you in our plan.

I deny the accusations of the opposition on the ground that they are gross misrepresentations and intended to cloud the issue and fool the voter. No other county in the state has accomplished so much in the way of good roads. The men who are behind this recall have threatened me ever since my term of office began unless I would submit to their dictation.

The grand jury report was not correct and has been so proven relative to culvert, harness and other matters. If wrong in some, wrong in others. All I want is a square deal. The opposition will not give it.

APPENDIX B.

The following sections of the Oregon Code are referred to in the Direct Primary Law and made a part thereof so far as they do not conflict with its provisions:

3304. It shall be the duty of the county court in the several counties of the state, at the regular December term preceding the general election, to set forth and establish election precincts within the county. Said court may set off and establish within such county as many election precincts as may be deemed necessary or convenient, and they shall be designated by numbers or names; provided, that no election precinct shall contain more than 300 electors, as nearly as may be ascertained by the court, and shall particularly bound the same.

3305. The county court shall, at the regular term in January preceding a general election, appoint three judges and three clerks of election for each election precinct, to serve for the period of two years, and shall designate one judge to be chairman. Said judges and clerks shall each be duly qualified electors within the precinct for which they are appointed, able to read, write and speak the English language, not a candidate for an elective office to be voted for at the ensuing election. No more than two judges and two clerks shall be members of the same political party. At least 10 days before any election authorized by law the county court shall designate one polling place in each precinct and fill all vacancies that may happen among said judges and clerks by reason of death, removal from the precinct, disqualification or excusal by the board for good and sufficient cause. The said judges and clerks shall meet at eight o'clock a. m. at their respective polling places at the times

prescribed by law for holding a general or special election, to act as judges and clerks of such election until relieved by the second board.

3306. In all election precincts in which were cast one hundred and fifty (150) or more ballots at the last general election, or in which the county court believes that many ballots will be cast at the next general election, the county court may likewise, at said January term, appoint a second or additional board consisting of three judges and three clerks for each precinct, who shall hold their offices for two years, and who shall possess the same qualifications and exercise the same authority as the first board mentioned in Section 3305. The judges and clerks constituting the second board, for each precinct, shall meet at eight o'clock p. m. at their respective polling places as designated in the order appointing them, at the times prescribed by law for holding a direct primary election, a general or special election, and at the same hour of eight o'clock p. m. shall relieve and take the place of the said first board, and shall forthwith proceed to count and tally the ballots, in the manner prescribed by law. In case the count is not completed by eight o'clock a. m. of the next following day, the said first board shall reconvene and relieve the second board, and continue said count until eight p. m., when, if the count is not yet completed, the second board shall reconvene and again relieve the first board, and so, alternately, until said boards have fully completed the count and certified the returns. Judges and clerks constituting the first board, before being relieved by the second board at eight o'clock p. m. of the first day, shall certify and sign the poll books as required by Section 3324. The judges and clerks constituting the several boards shall number the ballots and count the tallies upon the tally sheets, as hereinafter provided, and certify the returns, so as to distinctly show the work of each board separately.

3324. The following shall be the form of the poll books to be kept by the judges and clerks of election under this act:

Poll book of the election held in ..... precinct, in the county of ..... on the ..... day of ....., in the year 19....

State of Oregon, County of ....., ... Precinct, ss.

We, ... and ....., judges of said election, being first duly sworn, severally say upon oath, I will perform the duties of judge of election according to law, and that I will studiously endeavor to prevent fraud, deceit, and abuse in con ducting the election.

....., Chairman.
....., Judge.
....., Judge.

Subscribed and sworn to before me this ..... day of ....., 19....

State of Oregon, County of ....., ... Precinct, ss.

We, ... and ....., clerks of said election, being first duly sworn, severally say upon oath, I will perform the duties of clerk of election according to law, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the election.

....., Clerk.
....., Clerk.

Subscribed and sworn to before me this ..... day of ....., 19....

A. B., chairman, C. D. and E. F., the judges, and G. H. and J. K., clerks of said election, were respectively sworn (or affirmed) according to law, previous to their entering on the duties of their respective offices.

NUMBER AND NAMES OF ELECTORS.

No. 1. (Name of Elector.)
No. 2. (Name of Elector.)
No. 3. (Name of Elector.)

We hereby certify that the number of electors who voted at the above polling place and election was as follows:

Voted for state, district, county, and precinct officers....(No.)
Voted for district and state officers.....(No.)
Voted for state officers.....(No.)

Total number of ballots cast.....(No.)

....., Chairman.
....., Judge.
....., Judge.
....., Clerk.
(Who kept this poll book.)
....., Clerk.
(Who kept the other poll book.)

Immediately after the close of the polls the names of the electors who voted shall be counted, and the number written and certified in each of the poll books at the end of the list, and the same shall be immediately signed by the chairman and each of the judges and clerks in the manner indicated above.

3333. Any political party, and any assembly of electors as hereinafter defined, and also individual electors to the number hereinafter specified, by causing a certificate of nomination to be duly prepared and filed in the manner hereinafter provided, may nominate one candidate for each public office to be filled at the election, whose name shall be placed upon the ballots to be furnished as hereinafter provided. A political party within the meaning of this act is an affiliation of electors representing a political party which, at the general election next preceding, polled at least five per cent of the entire vote cast in the state, county, precinct, or other electoral district for which the nomination is made for representative in congress, or which shall present a petition with the signatures of at least five per cent of the electors of that district, stating their intention to form a new political party, giving the designation thereof. An assembly of electors, within the meaning of this act, is an organized

body of not less than one hundred electors of the state, or electoral division thereof for which the nomination is made.

3341. Immediately after each certificate of nomination is filed, the county clerk shall enter in a book marked "register of nominations," the date when the certificate was filed with him, the name of each candidate, the office for which he is nominated, and the name of the party or convention or assembly making the nomination, together with the names of the chairman and secretary certifying the same; and in case the certificate of nomination is made by individual electors, the names of the two signers who make oath thereto, and the total number of signatures thereto. As soon as the acceptance or withdrawal of the candidate is filed it shall also be entered upon said register.

3343. Any person who has been nominated and accepted some nomination, as provided in this act, may cause his name to be withdrawn from nomination at any time prior to the election, by a writing declining the nomination, stating the reason, signed and acknowledged by him before some officer authorized by the laws of this state to take acknowledgments of deeds, and certified by such officer, and by filing the same with the secretary of state or the county clerk or clerks with whom the certificate nominating him as a candidate was filed. Such withdrawal may be sent by telegram to the secretary of state through a county clerk, as provided by Section 3346, in the case of certificates of nomination.

3344. If any person nominated as herein provided dies or withdraws before the day fixed by law for the election, and the fact of the death becomes known to the satisfaction of the officer, the secretary of state, or county clerk or clerks in whose office the certificate of nomination nominating such person was

filed, shall forthwith give notice by posting a certificate of the fact in a conspicuous place in his office. In every such case the name of the candidate who has died or withdrawn shall not be printed upon the ballots, and if already printed, shall be erased or cancelled before the ballots are delivered to the electors.

3345. If the original nomination thus vacated was made by a political party or assembly, and (such) party or assembly can reconvene, it may fill the vacancy before the day fixed by law for the election. If the party or assembly has delegated to a committee the power to fill such vacancies, such committee may likewise fill the same. In every case where the original candidate dies or withdraws, as many certificates of nomination made by electors to fill the same office shall be filed as are duly presented to the proper officer before the day fixed by law for election. The certificate to fill such vacancy shall substantially conform with the requirements for an original certificate of nomination, and shall be filed with the same officer the original certificate was filed with.

3346. When such original certificate of nomination, thus vacated, was filed with the secretary of state, the certificate to fill the vacancy thus occasioned shall be filed with him, and it may be filed directly with the secretary of state or in the following manner: It may be presented in duplicate to any county clerk, who shall file one of the certificates in his office, and upon being tendered the cost of transmitting the same, it shall be the duty of such county clerk to forthwith cause the certificate of nomination to be telegraphed to the secretary of state and repeated back, and he shall also forthwith mail the duplicate thereof, by registered letter, to the secretary of state. The secretary of state shall file said telegraph copy of the certificate the same as if it was the original, and he

shall also file the duplicate when the same arrives by mail. The secretary of state shall, in certifying the nominations to the several county clerks, omit the name or names of all such candidates filed with him who die or withdraw, as aforesaid, and instead thereof he shall certify the name or names of the persons who have thus been nominated to fill such vacancy. In the event that he has already sent forth his certificate, he shall forthwith certify to each county clerk, by telegraph if necessary, the name and residence of each person so nominated to fill such vacancy, the office he is nominated for, the party or principle he represents, and the name of the person for whom such nominee or nominees are substituted. Every county clerk shall proceed thereafter in conformity with said later certification.

3347. Not more than forty (40) days and not less than thirty-five (35) days before the day fixed by law for the election the secretary of state shall arrange, in the manner provided in this act for the arrangement of the names and other information upon the ballots, all the names and other information concerning all the candidates contained in the certificates of nomination which have been filed with him, and accepted by the nominees, in accordance with the provisions of this act, and he shall forthwith certify the same under the seal of the state and file the same in his office, and make and transmit a duplicate thereof by registered letter to the county clerk of each county in the state; and he shall also post a duplicate thereof in a conspicuous place in his office and keep the same posted until after said election has taken place.

3348. Not more than twenty-five (25) days and not less than twenty-two (22) days before the day fixed by law for the election, the county clerk of each county shall arrange, in the manner provided by this act for the arrangement of the names

and other information upon the ballot, all the names and other information concerning all the candidates contained in the certificates of nomination which have been filed with him and accepted by the nominees, and which have been certified to him by the secretary of state in accordance with the provisions of this act, and he shall forthwith certify the same under the seal of the county court and file the same in his office, and make and post a duplicate thereof in a conspicuous place in his office and keep the same posted until after the election has taken place; and he shall forthwith proceed and cause to be printed, according to law, the colored or sample ballots and the white ballots required by this act.

3392. The county clerk of each county shall cause to be printed according to law all the ballots required under the provisions of this act, and shall furnish the same in the manner hereinafter provided for the use of all electors in the county. Ballots other than those furnished by the respective county clerks, according to the provisions of this act, shall not be used or circulated or cast or counted in any election provided for in this act.

3396. When any vacancy occurs by death or withdrawal aforesaid, and after the printing of the ballots, any person or persons are nominated, as aforesaid, to fill such vacancy, the county clerk shall, a sufficient time before the election, cause to be prepared and printed, according to law, upon cards of instruction, arranged in the manner herein required for the ballots, the names and information concerning such candidates so nominated to fill such vacancies caused by death or withdrawal; one of such cards, certified by the county clerk, shall be posted and kept posted in plain view in each compartment or place provided for preparing the ballots in each polling place, and the

same shall also be posted in the county clerk's office from the time the same is prepared until after the election.

3397. It shall be the duty of the county clerk of each county to cause the name of each nominee who has thus withdrawn or died to be cancelled upon the white ballots, and also the colored ballots, before they are given out to the electors. If said ballots have been already forwarded to the several election precincts, the county clerks shall, if there is time, certify the matter to the judges of the several election precincts, and then it shall be the duty of the judges of such election precincts, in accordance with such certification, to see that the name of each candidate who has thus withdrawn or died is cancelled upon the white and colored ballots before they are given out to the electors, and also that such cards of instruction, or lists of the candidates nominated to fill such vacancy, are duly posted in each compartment or place provided for preparing the ballots, before the ballots are given out to the electors.

3398. It shall be the duty of the county clerk of each county to provide for each election precinct within such county one large and one smaller ballot box or pouch, the larger one of which shall be used for the reception of all general ballots deposited and the smaller one for all ballots cast only for state or district officers. Said larger boxes or pouches shall be marked "General" and the smaller "State and District" respectively. Each of such ballot boxes shall be provided with a lid fastened with hinges and a good lock and key. The lid shall form the top of the box and contain an opening or slot five inches long and one-quarter of an inch wide for the reception of ballots. Each of such ballot boxes shall be of strong leather or canvas and provided with a good lock and key. In the top of each of such ballot pouches, there shall be a slot five inches long and one-quarter of an inch wide for the reception of ballots.

All ballots cast by electors entitled to vote for all the officers to be elected at the general election shall be deposited in the box or pouch marked "General"; all ballots cast by electors qualified only to vote for state or state and district officers shall be deposited in the box or pouch marked "State and District."

3399. A sufficient time and not less than five days before the opening of the polls at any election provided for in this act, the county clerk of each county in which the election is to be held shall deliver to the sheriff of the county for use at each polling place in the county,—

1. The proper number of ballots required for such polling place, prepared and printed as provided in this act;
2. The two ballot boxes, required by this act;
3. Two poll books, required by this act;
4. One copy of the election laws of this state, required by this act;
5. A sufficient number of tally sheets, required by this act;
6. A sufficient quantity of pens, ink, blotting pads, indelible copying pencils, needles and string for stringing ballots and stubs, sealing wax, and the like, necessary and convenient for carrying out the provisions of this act.

The white ballots so furnished shall be in a package by themselves, and the package shall be marked on the outside "white ballots," with the number contained in the package, and the package shall be addressed to the judges of the polling place for which it is intended, and the package shall be certified by the clerk and sealed under the seal of the county court of the county. The colored or sample ballots shall likewise be in a separate package by themselves, and the package shall be marked on the outside "colored or sample ballots," with the number contained in the package, certified, addressed, and sealed. The poll books, tally sheets, and copy of election laws shall likewise be done up in a package, addressed and sealed. The other

articles shall likewise be addressed. The county clerk shall keep a record of the addresses thereon, the contents of the packages, and the number thereof.

3400. The county clerk shall prepare a receipt in duplicate for each polling place, enumerating the packages, and stating the time and day and date when the same were delivered by him to the sheriff. The sheriff shall sign both of said receipts, upon receipt of the packages; one of the receipts shall be retained by the clerk, and the other shall be delivered to the sheriff, and upon receipt of the packages, the judge or judges of election to whom they are delivered shall countersign said receipt, and the same shall forthwith be returned by the sheriff and filed with said clerk.

3401. The sheriff of each county, under the direction and control of the county court of the county, a sufficient time and not less than one day before every election provided for in this act, shall secure the use of and take possession of the places designated by the county court as the polling places in the several precincts in the county; he shall cause the same to be suitably provided with a guard rail so constructed and placed that only such persons as are inside said rail can approach within six feet of the ballot boxes, or within ten feet of the compartments, shelves, or tables at which electors are to prepare their ballots for voting. He shall furnish in the manner directed by such county court, a sufficient number of such compartments, shelves, or tables in or at which electors may conveniently prepare their ballots for voting, so that in the preparation thereof each elector may be screened from the observation of other persons. The arrangement shall be such that neither the ballot boxes or the compartments, shelves, or tables, or the electors while preparing their ballots, shall be hidden from view of those just outside the said guard rail, or from the judges; and yet the same shall

be far enough removed and so arranged that the elector may conveniently prepare his ballot for voting with absolute secrecy. There shall be provided in each polling place not less than one such compartment, shelf, or table for every forty electors to vote at such polling place, and every polling place shall have at least three of such compartments, shelves, or tables.

3402. The sheriff shall likewise arrange in or near by each polling place, tables and chairs, with lights and fire, if needed, for the use of the judges and clerks in counting the ballots. The tables and chairs shall be arranged so that the chairman and second judge shall sit on one side of the table, with the ballot boxes on top of the table in front of them. Two of the clerks shall sit on the opposite side of the table facing the chairman and second judge. The third clerk shall sit at the end of the table to the left of the chairman. The third judge shall sit at the other end of the table to the right of the second judge. The sheriff shall arrange a stout guard rail two feet six inches from the outer sides of the said table, and just back of the so arranged chairs of the judges and clerks, so that the guard rail will entirely enclose the board of judges and clerks when seated as aforesaid, and shall serve to keep the bystanders off from the table, and yet not prevent them overlooking the judges and clerks to see that they read and tally the ballots correctly. The candidates, and their agents duly appointed as provided in section 3320, are hereby declared and entitled to be present in the room where the ballot boxes are from the time of opening of the polls until the conclusion of the count, and the returns are certified and sealed. During the time for voting, no person other than the judges and clerks of election, and the electors admitted as herein provided for the purpose of preparing their ballot and voting, shall be admitted or permitted to be within the guard rail provided for in section 3401. During the time for counting the ballots, no person other than the judges and

clerks, and candidates, and their agents duly appointed as provided for in section 3320, shall be allowed to be present where the ballot boxes are and where the count is being conducted; and until after the count is fully completed and the returns certified, signed, and sealed, they shall not be admitted or permitted to be inside of the guard rail provided for in this section.

3404. On receipt of his white ballot as aforesaid, the elector shall forthwith, and without leaving the enclosed space, retire alone to one of the compartments or places provided, and shall there prepare his ballot, by marking immediately to the left of the name of the candidate of his choice for each office to be filled, or by writing in the name of the person he wishes to vote for; and in case of a constitutional amendment or other question submitted to the vote of the people, by marking immediately to the left the answer he desires to make, which shall be done with an indelible "copying" pencil. Before leaving the compartment or place provided, the elector shall fold his ballot so that the face thereof shall be concealed, without displaying the ballot or informing any person how he has prepared it; and he shall fold the ballot so that the remaining stub may be readily torn off without exposing the contents of the ballot or the marks or crosses thereon. He shall then deliver the ballot to the chairman, and state his name and residence.

3405. Immediately upon receiving the ballot from the elector, the chairman shall repeat the name and residence distinctly, and shall remove the remaining half of the stub from the ballot without exposing the contents of the ballot or the marks or crosses thereon, and pass the stub to the second clerk, who shall compare it with its counterpart and observe that the name written on the counterpart corresponds with the name given by the person voting. If no objection is made to the elector, and the

judges are satisfied that the elector is legally qualified, according to the constitution and laws of the state, to vote for all offices to be filled at that election, and that the ballot presented is the identical white ballot received by the elector as aforesaid from the first clerk, the chairman shall immediately put the ballot in the box marked "general," without any one inspecting or seeing the names written or printed or the crosses or marks upon the ballot, and without unfolding the same, and the second clerk shall enter opposite the name and number of the elector in the poll book the word "voted" or letter "V," to indicate the same.

3406. If a majority of the judges are satisfied the elector is legally qualified to vote in that precinct only for "state" officers, the chairman shall immediately write with pen and ink upon the back of the ballot the word "state" and sign his (the chairman's) initials thereto; if the elector is qualified to vote for district officers also, the chairman shall write as aforesaid the words "state and district"; in either such case the ballot shall then be deposited in the box marked "state and district," and the clerks shall add to the name of the elector upon the poll books the words "state" or "state and district," as the case may be. The elector shall then immediately pass out by the way indicated by the judges.

3407. If any elector by accident or mistake spoils his ballot so that he can not conveniently vote the same, he may, on returning said spoiled ballot, receive another in place thereof. If the elector spoils three such ballots, it shall be conclusive evidence that the elector is unable to prepare his ballot without assistance, and he shall request the assistance of two of the judges to prepare one for him. When the elector spoils a ballot and returns the same to the first clerk, the clerk shall write upon the stub the word "spoiled," and sign his initials and remove the stub from

the ballot, and immediately pass the stub to the judges, and he shall then immediately destroy the spoiled ballot, without any one inspecting its contents, and issue another to the elector as in the first instance, affixing the same name and number to the stubs as the original ballot.

3408. No person shall take or remove any white ballot from the polling place, and immediately upon the closing of the polls the judges shall cause all the white ballots remaining unused to be immediately destroyed by tearing them in pieces or by burning them.

3409. As fast as electors vote, as aforesaid, the second clerk shall string the mated stubs upon a strong thread, and immediately upon the closing of the polls he shall securely knot together the ends of the thread and carefully preserve the same.

3410. Not more than one person at one time shall be permitted to occupy any one compartment or place provided for electors to prepare their ballots, and no person shall remain in or occupy such compartment longer than may be reasonably necessary to prepare his ballot. Every elector who does not vote any ballot delivered to him shall, before leaving the polling place, return such ballot to the first clerk, who shall write upon the stub thereon "not voted," and sign his initials and treat the stub and ballot in the same manner as in the case of a spoiled ballot, and both clerks shall note the fact upon the poll books by drawing a line with pen and ink across the name of the person and writing the words "not voted."

3411. Any elector who declares to the chairman that he can not read or write, or that by blindness or other physical disability he is unable to prepare his ballot, shall upon request, receive the assistance of two of the judges in the preparation

thereof, and such officers shall ascertain his wishes and prepare his ballot in accordance therewith, and such officers shall thereafter give no information regarding the same. The chairman may, in his discretion, require such declarations of disability to be made by the elector under oath. Whenever an elector receives assistance in this manner, the second clerk shall write upon the poll book opposite the name of the elector the word "assisted," and if sworn, also "sworn." In preparing his ballot any elector shall be at liberty to use or copy any colored or sample ballot, provided by this act, which he may choose to mark or to have had marked in advance, to assist him in marking the official ballot.

3412. Any elector who shall use or bring into the polling place or carry away therefrom any unofficial ballot or any paper or thing bearing any resemblance to the official white ballot other than said colored or sample ballot, or anything which will show how he has prepared the white ballot, or any elector who shall, except as herein otherwise provided, allow his white ballot to be seen by any person with an apparent intention of letting it be known how he is about to vote, or mutilate his ballot, or place any distinguishing mark upon his ballot, whereby the same may be identified, or who shall make a false statement as to his inability to mark his ballot, or any person who shall interfere, or attempt to interfere, with any voter when inside said enclosed space, or when marking his ballot, or who shall endeavor to induce any voter to mark his ballot in a particular way, or before or after voting to show or explain how he marks or has marked his ballot, upon conviction shall be punished by a fine of not less than $50 nor more than $200.

3413. It shall be the duty of the secretary of state, not less than six months before every biennial election in this state, to compile the election laws of the state and index the same and

cause a sufficient number thereof to be printed in appropriate pamphlet form for the convenience of the electors of the state. He shall at the same time and in the same manner cause to be printed a sufficient number of copies of such of the provisions of the laws pertaining to elections and relating to and regulating the duties of election boards as are necessary for the use of such boards at the several elections; also suitable poll books, required by and in accordance with section 3324; also tally sheets, required by and in accordance with section 3326; also register of nominations books, required by section 3341; also receipts, required by and in accordance with section 3400; needles for stringing ballots and stubs, as required by sections 3325 and 3409, and indelible copying pencils, suitable for cancelling the names of candidates not voted for, as required by section 3404; and he shall forthwith proceed and distribute the same to the several county clerks in the state in appropriate quantities. The bills for furnishing said pamphlet copies of the election laws, for ruling, printing and binding such poll books, blanks, receipts, register of nominations, and tally sheets, and procuring said needles and pencils, and for preparing and delivering the same, as required by this act, shall be audited by the secretary of state and paid out of any moneys in the treasury not otherwise appropriated.

3414. Any officer upon whom a duty is imposed by this act who shall disclose to any person the name of any candidate for whom any elector has voted, or give any information by which it can be ascertained for whom any elector has voted, or any judge or clerk of election or other officer about the polls who shall do any electioneering on election day, or any person who shall do any electioneering on election day within any polling place, or within fifty feet of any polling place, or any person who shall remove any white ballot from any polling place before the closing of the polls, or any person who shall knowingly

apply for or receive any white ballot in any polling place other than that in which he is entitled to vote, or any person who shall show his ballot after it is marked to any person in such a way as to reveal the contents thereof, or the name of the candidate or candidates for whom he has marked his ballot, or any person (except the chairman of election) who shall receive from any voter the ballot prepared for voting, or any person who shall, contrary to this act, ask another at a polling place for whom he intends to vote, or who shall examine his ballot or solicit the voter to show the same, or any elector who shall knowingly receive any white ballot from any other person than one of the election clerks, or any person who shall print or circulate or knowingly have in his possession any imitation of the official white or colored ballots, or any person, other than a clerk of the election, who shall deliver any white ballot to an elector, or any elector who shall deliver any ballot to the chairman to be voted except the one he received from the first election clerk, or any elector or any one who shall, contrary to the provisions of this act, place any mark upon or do anything to his or any white ballot by which it may be afterwards identified as the one voted by any particular individual, upon conviction shall be punished by a fine of not less than $50 and not more than $500, or by imprisonment in the county jail not less than three months nor more than one year, or both, in the discretion of the court.

3415. Any judge or clerk of election who shall wilfully disregard any of the provisions of this act, or who shall negligently fail to enforce any of the provisions of this act, or who shall, in the counting of the ballots or making the returns thereof, wilfully disregard any of the directions or requirements of this act, or any person who shall wilfully or fraudulently alter or destroy any white ballot cast at any election or any of the returns of any election regulated by this act, or who shall introduce among the genuine ballots a fraudulent ballot, or any person

who shall falsely write the initials of the chairman or any writing upon the ballot or ballot stub purporting to be written by the clerk or chairman, or any person who shall steal any of the ballots or returns, or wilfully or fraudulently hinder or delay the delivery of any of the election returns to the county clerk, or wilfully break open any of such sealed returns of any election regulated by this act, upon conviction shall be punished by imprisonment in the penitentiary not less than one year nor more than three years, or by fine not less than $500 nor more than $2,000, or both such fine and imprisonment.

3416. Any person who shall, prior to or during an election, wilfully deface, tear down, remove, or destroy any list of candidates or other notice posted in accordance with the provisions of this act, or who, during an election, shall wilfully deface, tear down, remove, or destroy any card of instruction or specimen ballot posted under the provisions of this act for the instruction of voters, or who shall deface, tear down, remove, alter, or destroy any certificate of the result of the election posted under the provisions of this act, or who shall, during an election wilfully remove or destroy any of the official white or sample ballots, supplies, or conveniences furnished to enable a voter to prepare his ballot or who shall wilfully break the seals or open any of the sealed packages containing any of the supplies for the polling places contrary to the provisions of this act, upon conviction shall be punished by a fine of not less than $50 nor more than $500, or by imprisonment in the county jail not more than one year, or by both such fine and imprisonment, in the discretion of the court.

3424. When two or more counties are united in the same senatorial or representative district, the return of votes cast for joint senator or representatives to the legislative assembly shall be forwarded by the county clerk of each county to the secretary

of state in like manner as votes cast for judges of the supreme court and district attorneys are now required by law to be returned.

3448. Said registration book shall be ruled and printed upon twenty-four-pound folio, superfine white paper, so that each double page may be twenty-two inches wide and seventeen inches long. They shall be ruled and printed alike for all counties in the state. There shall be one or more volumes, well bound with leather backs and corners and cloth sides, for each county, large enough to contain the names of all the electors in the county, called the general county register. Each general county register shall have four blank leaves, suitably ruled, in the front, to facilitate making an index to the several precincts in the county, and the pages shall be numbered consecutively on the upper right-hand corner of each double page. Each county clerk shall, before proceeding to register electors, suitably divide his general county register into as many parts as there are election precincts in his county, and index the several precincts in the front of the volume. There shall be one registration book bound in tag board with cloth strips on the back for each election precinct in each county in the state, called the precinct register for ..... precinct ..... county; and its pages shall be alphabetically indexed on the margin so as to facilitate registering the electors in the precinct in alphabetical order, according to surnames. These precinct registers shall be bound in different sizes so as to suit the different precincts. Size one shall contain eight double pages, size two shall contain sixteen double pages, size three shall contain thirty-two double pages, size four shall contain forty-eight double pages. The paper, size of pages, ruling, and printing shall be the same as used for the general county register, but the pages need not be numbered. Said registration books shall be ruled and printed substantially in the following form:

OFFICIAL REGISTER OF ELECTORS FOR_____PRECINCT,_____COUNTY, OREGON

No.	Date	Name, surname, and given name	Voted	Occupation	Age	Nativity	Declaration of naturalization	Residence	Oath	Signature of electors	Clerk's signature	Remarks

The following form of oath shall be printed perpendicularly in the column headed, "oath": "I, having been first duly sworn, say, upon oath, that I am a qualified elector, and the statements here entered opposite my name, as to my qualifications as an elector, are true."

3449. The following registration blanks, designated as "registration blank A," and "registration blank B," shall be printed upon sixteen-pound cap, superfine paper, eight and one-half inches wide, and fourteen inches in length, with a blank margin of one inch on the left-hand side of the blank, the back of which margin shall be gummed five-eighths of an inch in width. They shall be furnished in pads of one hundred each:

OREGON REGISTRATION BLANK "A."

This blank serves for three purposes: For registering with a notary public or justice of the peace, as provided in section 3455, in which case two witnesses are necessary; also for use if challenged under section 3461, when six witnesses may be required; also under section 3462, when the elector is not registered in the precinct, when he must subscribe to this blank three times and produce six freeholders as witnesses, who must all sign the second affidavit:

State of Oregon, }
County of ..... } ss.

I, the undersigned elector, do solemnly swear (or affirm) that my name and signature as signed below is my true name and signature. If I have not personally signed it, it is because .....; and it was signed at my request by the attending (attesting) officer. My age is ..... years, and occupation .....; nativity .....; naturalized or declared my intention in ..... court, in ..... county, ... state, on ....., 19..., as appears by the naturalization papers exhibited herewith. Present residence is in section ....., township ....., range ....., ... county, Oregon, (or if in town or city) at No. ....., ... street, in the city of .....; I occupy room ..... on the ..... floor; that I have resided in this state during the six months immediately preceding this election.

In testimony whereof I sign my name three times.

(1).....,
(2).....,
(3).....,
Elector.

Note: If unable to sign, let the officer write his name and so state.

We the undersigned witnesses do swear that our names and signatures are genuine; that we are each personally acquainted with the elector and his residence, as stated, that we believe all his other statements are true, and that we are each freeholders in the county.

Signatures.	Residence.
....,	.....
....,	.....
....,	.....

Subscribed and sworn to by the elector and..... witnesses before me this ..... day of....., 19...

....., ...,
Justice of the peace for ..... district.
Notary public for Oregon.

(Erase one title to suit.)

OREGON REGISTRATION BLANK "B."

For use if the elector has changed residence after registering, in order to cancel the same. By cancelling his former registration in this manner he can again register in his present precinct and county. See sections 3459 and 3460.

I, the undersigned elector, do solemnly swear (or affirm) that my name and signature assigned below is my true name and signature. If I have not personally signed it, it is because .....; and it is signed at my request by the attesting officer. That while a resident of ..... precinct, in ..... county, Oregon, I registered, but on ..... day of ....., 19..., I moved my residence to section ....., township ....., range ....., ... county, Oregon; (or if in city) to No. ...., ... street, in the city of .....; I occupy room ..... on the ..... floor.

I, therefore, request the cancellation of my registration in said ..... precinct, ... county, Oregon.

....,
Elector.

Note: If unable to sign, let the officer sign his name and so state.

We, the undersigned witnesses, do swear that our names and signatures are genuine; that we are each personally acquainted with the elector and his residence, as stated; that we believe all his other statements are true, and that we are each freeholders in this county.

Signatures.	Residence.
....,	.....
....,	.....

Subscribed and sworn to by the elector and the two witnesses before me this ..... day of ....., 19...

....,
Justice of the peace for ..... district.
Notary public for Oregon (or other officer.)
(Erase one title to suit.)

3452. It shall be the duty of the county clerk in each county, between the first Monday in January, 1906, and five o'clock P. M. of the fifteenth day of May, 1906, and between the same dates and hours biennially thereafter, and between the twentieth day of September, 1904, and five o'clock P. M. of the twentieth day of October, 1904, and between the same dates in each and every year thereafter in which there shall be an election of presidential electors, to enter upon the proper registers every person who complies with the requirements of this chapter and claims to be an elector residing in the county. If the clerk refuses to enter the name of any qualified elector, such elector may proceed by mandamus to compel him to do so; provided, that the county clerk shall not register any elector during the period beginning on the fifty-fourth day and ending on the forty-first day immediately preceding the general biennial June election; and provided further, that this law shall not operate to prevent any additional registration of voters required by the charters or ordinances of any city or town within the provisions of section 3354.

3453. Every elector may be registered without charge by personally appearing in the office of said clerk and after being duly sworn, stating the following facts, which the clerk or his deputy shall appropriately enter in black ink, at first in the general county register. The electors shall be numbered consecutively one, two, three, etc., in each precinct as they are registered in the general county register. The clerk shall inquire of the elector, and enter the following information in the general county register, in the division set off for the precinct in which the elector resides, to wit: (1) The registration number of the elector; (2) the date of registering the elector; (3) the full name of the elector; (4) leave a blank space in which the judges of election shall enter in the precinct register the poll book number of each elector when he has voted; (5) the business or occu-

pation of the elector; (6) the age of the elector in years; (7) the country of nativity; (8) if naturalized, the time, place, and court of naturalization, or declaration, as evidenced by the legal proof thereof, exhibited by the elector; (9) the post-office address and the actual and precise place of residence of the elector at the time of his registering, stating first the precinct, and, if in the country, the section, township, and range; and in cities and towns having streets, by specifying the name of the town or city, the street or other location of or dwelling place of the elector, with the number of such dwelling, if the same has a number; if not, then with such description of the place that it can readily be ascertained and identified; if the elector be not the head or proprietor of the house, then it must show that fact, and upon what floor thereof, and what room such elector occupied in such house; (10) the fact whether or not the elector desiring to be registered is able to write his name and mark his ballot, and if he can not do both, then the nature of such disability must be entered; (11) the elector shall then, next following the aforeadministered oath, sign his name in the presence of the clerk, or the deputy acting, in the general register upon the same line where the preceding information is written, and the registering officer shall then sign his own name upon the said line, and add any remark required by this chapter or appropriate thereto for the information of the judges of election. If the elector is registered by the clerk in person, he shall sign his own name in attestation thereof, and if the elector is registered by a deputy, then, in addition to the name of the clerk, the particular deputy actually registering the elector shall sign his name, at length, in attestation thereof. If the elector declares he is unable to mark his ballot or sign his name he shall state why, and the clerk shall enter upon the register the reasons. If the elector's inability to sign is apparent, in consequence of some physical infirmity, such as blindness or loss of limb, inca-

pacitating the elector from writing, he shall so state the fact; but if the disability is stated to be the illiteracy of the elector, the clerk shall, in addition to stating that fact, enter as full a description of the physical peculiarities of the elector as possible, giving his height, approximate weight, complexion, color of eyes, and any visible marks or scars and their location, and attest the same. It shall be the duty of the county clerk in each county on the last day of each week of registration to send to the secretary of state by mail the name and post-office address of every elector registered in the preceding six days.

APPENDIX C.

The following measures were submitted to the voters of the city of Portland, Oregon, at a special election held in said city December 9, 1913. The arrangement and recommendations were made by the *Morning Oregonian,* one of the leading daily newspapers of the state.

REVIEW OF PROPOSED AMENDMENTS.

RECOMMENDATIONS MADE ON FIFTEEN CHANGES IN CITY CHARTER TO BE PRESENTED TO VOTERS IN ELECTION TUESDAY, DECEMBER 9.

The *Oregonian* presents herewith its recommendations on the several amendments to be submitted to vote of the people tomorrow.

For the purpose of brevity titles are condensed but the first few words of each title are given to aid accurate identification:

An act to amend the city charter of Portland by adding thereto two sections defining the word improvement, etc.

100. Yes.

101. No.

This amendment merely changes the present details of financing street improvements. It gives no added authority to the council to involve private property in any form of improvement. Its purpose is to stop numerous leaks of money in the form of interest payments, and overhead charges which are now taxed against the property owner. It is a measure of economy.

Vote 100 Yes.

An act to amend section 128 of the city charter so as to except the city engineer and superintendent of parks from the provisions requiring all municipal officers to be registered voters of the city.

102. Yes.

103. No.

The purpose of this amendment is clear. It is to authorize the city to employ a city engineer or park superintendent who may not be a resident of Portland. It is perhaps a principle of commission government that the city should be free to go into the world's markets for employees having technical knowledge and experience. Against it is opposed local pride and the probability that competent men for these positions are obtainable in Portland. The *Oregonian* believes that the latter is the case.

Vote 103 No.

An act to amend the charter of the city of Portland so to exempt the city engineer and superintendent of parks from the provision that such officers shall be citizens of the United States, etc.

104. Yes.

105. No.

This is a companion of the preceding amendment. Two amendments of the same import are required because the restriction on appointments occurs in two sections of the charter. The same reasons for approving or rejecting apply.

Vote 105 No.

An amendment to section 3 of the city charter so as to accept the limitations of governmental power contained in the state constitution and criminal laws.

106. Yes.

107. No.

The governmental powers of the city are now limited by charter to those prescribed by the constitution and civil law instead of criminal law. The change is said to be technical, but the *Oregonian* confesses that it does not understand its necessity. The present charter provision was contained in the 1903 charter, under which the city exerted governmental powers without disaster or serious handicap.

No recommendation.

An act to amend section 317 of the city charter in relation to civil service.

108. Yes.

109. No.

This amendment merely changes the order of the eligible list so that employees losing positions through no fault of their own may be reappointed in the order of their efficiency rating instead of the order of their discharge. It is a measure to promote efficiency.

Vote 108 Yes.

An act to amend the city charter of Portland by adding thereto two sections providing for a municipal court, etc.

110. Yes.

111. No.

The amendment plans a reform in judicial procedure by perfecting methods of appeal from the municipal court. It also constitutes the municipal court a morals court. It creates no new offices.

Vote 110 Yes.

An act to amend that portion of the charter of Portland which requires at least one week to elapse between the introduction and final passage of any ordinance.

112. Yes.

113. No.

The amendment changes the period between introduction and final passage from "one week" to "six days." The effect of the existing section is to postpone final action for two weeks instead of one. The measure will facilitate the work of the council.

Vote 112 Yes.

An act to amend that portion of the city charter of Portland which authorizes the city to issue and sell public utility certificates.

114. Yes.

115. No.

This measure permits the council at will to mortgage any existing public utility, such as the water system, for extension or enlargement. It is apparently designed to raise money without recourse to bonding proposals which the voters have and are determined to curtail. It has no limitations and is indefinite to a dangerous point.

Vote 115 No.

An act to amend section 306 of the city charter so as to exclude the superintendent of parks and the secretary of each commissioner from civil service.

116. Yes.

117. No.

Civil service by embracing these positions goes to extremes. Each commissioner should have a secretary in personal accord with him.

Vote 116 Yes.

An act to amend the city charter of Portland so as to provide that the council only in the transaction of legislative business shall act by ordinance.

118. Yes.

119. No.

This amendment permits the council to transact judicial business by resolution or motion and leaves legislative business only to be done by ordinance. Judicial business involves such acts as vacating a street, making a special assessment, passing on objections as to assessments, exercising discretion in passing on saloon license locations and character of applicants and similar matters. It is a measure to facilitate the work of the council.

Vote 118 Yes.

An act to amend the charter of the city of Portland by adding thereto a section relating to bond issues.

120. Yes.

121. No.

This measure confers authority on the council to sell municipal bonds in small denominations by popular subscriptions and is a needed provision.

Vote 120 Yes.

An act to amend the charter of the city of Portland by adding thereto a section providing a bond issue of $50,000 for a municipal paving plant.

122. Yes.

123. No.

While primarily designed as a repair plant the amendment permits its conversion into a general paving institution. The chief objection to this measure is that the need is not yet pressing for a repair plant. It is something the city can get along without until the city's financial condition warrants going into debt for a new enterprise.

Vote 123 No.

An act to amend the charter of the city of Portland by adding thereto a new section for the issuance of $25,000 in bonds for a public market.

124. Yes.

125. No.

The *Oregonian* believes that provision should have been made in the budget for a public market. But the need for one is pressing and the bond issue is therefore reluctantly given indorsement.

Vote 125 Yes.

An act to amend the charter by adding thereto a new section authorizing the issuance of $200,000 for park improvements.

126. Yes.

127. No.

In view of this year's high tax levy and also because the amendment is complicated by the addition of a section establishing a

precedent for the assessment of park improvement benefits to nearby property this bond issue is opposed.

Vote 127 No.

An act to amend an act adopted June 2, 1913, establishing a firemen's relief and pension fund.

128. Yes.

129. No.

This amendment permits the pensioning of firemen disabled in service prior to the adoption of the act. It applies to only two firemen, who seem to be as much entitled to the benefits of a pension as those who may hereafter be disabled. It is an act of justice.

Vote 128 Yes.

CONSTITUTION OF OREGON.[1]

(The Oregon Constitution was framed by a convention of sixty delegates chosen by the people at the general election on the first Monday of June, 1857. The convention met on the third Monday of August of the same year, and adjourned on the 18th of September. On the second Monday of November, 1857, the Constitution was ratified by a majority vote of the electors of the Territory, as provided by Article XVIII, and the Act of Congress admitting Oregon into the Union was approved February 14, 1859, on which date the Constitution went into effect. The Constitution is here published as it is in effect at this time; but the original operation of many provisions has been annulled, altered or enlarged as will be shown by the annotations in the general code and in laws of subsequent legislative sessions. The original text is omitted where it has been superseded by amendments in operation, but is given in full following amendments where it is not yet set aside by them.)

PREAMBLE.

We, the people of the State of Oregon, to the end that justice be established, order maintained, and liberty perpetuated, do ordain this Constitution.

ARTICLE I.

BILL OF RIGHTS.

§ 1. Principles of Social Compact.

We declare that all men, when they form a social compact, are equal in right; that all power is inherent in the people, and all free governments are founded on their authority, and instituted

[1]The author is indebted to Ben W. Olcott, Secretary of State for the State of Oregon, for the notes contained in this compilation of the Constitution.

for their peace, safety, and happiness; and they have at all times a right to alter, reform, or abolish the government in such manner as they may think proper.

§ 2. Freedom of Worship.

All men shall be secured in their natural right to worship Almighty God according to the dictates of their own consciences.

§ 3. Freedom of Religious Opinion.

No law shall in any case whatever control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.

§ 4. No Religious Qualification for Office.

No religious test shall be required as a qualification for any office of trust or profit.

§ 5. No Money To Be Appropriated for Religion.

No money shall be drawn from the treasury for the benefit of any religious or theological institution, nor shall any money be appropriated for the payment of any religious services in either house of the Legislative Assembly.

§ 6. No Religious Test of Witnesses.

No person shall be rendered incompetent as a witness or juror in consequence of his opinions on matters of religion, nor be questioned in any court of justice touching his religious belief, to affect the weight of his testimony.

§ 7. Manner of Swearing Witnesses.

The mode of administering an oath or affirmation shall be such as may be most consistent with, and binding upon, the conscience of the person to whom such oath or affirmation may be administered.

§ 8. Freedom of Speech.

No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right.

§ 9. Searches, Seizures, and Warrants.

No law shall violate the right of the people to be secure in their persons, houses, papers and effects, against unreasonable search or seizure; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

§ 10. Justice To Be Open and Without Price.

No court shall be secret, but justice shall be administered openly and without purchase, completely and without delay, and every man shall have remedy by due course of law for injury done him in his person, property, or reputation.

§ 11. Rights of Accused in Criminal Prosecutions.

In all criminal prosecutions, the accused shall have the right to public trial by an impartial jury in the county in which the offense shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor.

§ 12. Twice in Jeopardy.

No person shall be put in jeopardy twice for the same offense, nor be compelled in any criminal prosecution to testify against himself.

§ 13. Treatment of Persons Under Arrest.

No person arrested or confined in jail shall be treated with unnecessary rigor.

§ 14 Bail.

Offenses, except murder and treason, shall be bailable by sufficient sureties. Murder or treason shall not be bailable when the proof is evident or the presumption strong.

§ 15. Punishment of Crime.

Laws for the punishment of crime shall be founded on the principles of reformation, and not of vindictive justice.

§ 16. Excessive Bail and Fines—Power of Jury in Criminal Prosecutions.

Excessive bail shall not be required, nor excessive fines imposed. Cruel and unusual punishments shall not be inflicted, but all penalties shall be proportioned to the offense. In all criminal cases whatever, the jury shall have the right to determine the law and the facts, under the direction of the court, as to the law, and right of new trial, as in civil cases.

§ 17. Trial by Jury in Civil Cases.

In all civil cases, the right of trial by jury shall remain inviolate.

§ 18. Private Property Taken for Public Uses.

Private property shall not be taken for public use, nor the particular services of any man be demanded, without just compensation; nor except in case of the State, without such compensation first assessed and tendered.

§ 19. Imprisonment for Debt.

There shall be no imprisonment for debt except in case of fraud or absconding debtors.

§ 20. Exclusive Privileges.

No law shall be passed granting to any citizen or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

§ 21. Laws of Certain Nature Not To Be Passed.

No ex posto facto law, or law impairing the obligations of contracts, shall ever be passed, nor shall any law be passed, the taking effect of which shall be made to depend upon any authority, except as provided in this Constitution; provided, that laws locating the Capital of the State, locating county seats, and submitting town and corporate acts, and other local and special laws, may take effect or not, upon a vote of the electors interested.

§ 22. How Laws Suspended.

The operation of the laws shall never be suspended except by the authority of the Legislative Assembly.

§ 23. Habeas Corpus.

The privilege of the writ of habeas corpus shall not be suspended, unless, in case of rebellion or invasion, the public safety require it.

§ 24. Treason, Evidence Of.

Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid or comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or confession in open court.

§ 25. Effect of Conviction.

No conviction shall work corruption of blood or forfeiture of estate.

§ 26. Assemblages of the People.

No law shall be passed restraining any of the inhabitants of the State from assembling together in a peaceable manner to consult for their common good; nor from instructing their representatives; nor from applying to the legislature for redress of grievances.

§ 27. Right to Bear Arms.

The people shall have the right to bear arms for the defense of themselves and the State, but the military shall be kept in strict subordination to the civil power.

§ 28. Quartering Soldiers.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in the manner prescribed by law.

§ 29. Titles of Nobility.

No law shall be passed granting any title of nobility, or conferring hereditary distinctions.

§ 30. Emigration.

No law shall be passed prohibiting emigration from the State.

§ 31. Rights of White Foreigners—What Immigration May Be Restrained.

White foreigners who are or may hereafter become residents of this State shall enjoy the same rights in respect to the possession, enjoyment, and descent of property as native-born citizens. And the Legislative Assembly shall have power to restrain and regulate the immigration to this State of persons not qualified to become citizens of the United States.

§ 32. Taxes and Duties.

No tax or duty shall be imposed without the consent of the people or their representatives in the Legislative Assembly; and all taxation shall be equal and uniform.

§ 33. Enumeration of Rights, How Construed.

This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people.

§ 34. Prohibition of Slavery.

There shall be neither slavery nor involuntary servitude in the State, otherwise than as a punishment for crime, whereof the party shall have been duly convicted.

§ 35. Free Negroes and Mulattoes.

No free negro or mulatto, not residing in this State at the time of the adoption of this Constitution, shall come, reside, or be within this State, or hold any real estate, or make any contracts, or maintain any suit therein; and the Legislative Assembly shall provide by penal laws for the removal by public officers of all such negroes and mulattoes, and for their effectual exclusion from the State, and for the punishment of persons who shall bring them into the State, or employ or harbor them.

(These restrictions upon the rights of negroes and mulattoes are abrogated by the fourteenth amendment to the Constitution of the United States.)

ARTICLE II.

SUFFRAGE AND ELECTIONS.

§ 1. Elections Free.

All elections shall be free and equal.

§ 2. Qualifications of Electors.

In all elections not otherwise provided for by this Constitution, every citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months immediately preceding such election, and every person of foreign birth of the age of twenty-one years and upwards, who shall have resided in this State during the six months immediately preceding such election, and shall have declared his or her intention to become a citizen of the United States one year preceding such election, conformably to the laws

of the United States on the subject of naturalization, shall be entitled to vote at all elections authorized by law.

NOTE.—The foregoing section, extending the ballot to women, was proposed as an amendment by initiative petition filed December 20, 1910, and adopted by vote of the people, 61,625 for and 57,104 against, November 5, 1912.

§ 3. Idiots, Insane, and Convicts.

No idiot or insane person shall be entitled to the privileges of an elector; and the privilege of an elector shall be forfeited, by a conviction of any crime which is punishable by imprisonment in the penitentiary.

§ 4. Residence.

For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, or of this State; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any alms-house, or other asylum, at public expense; nor while confined in any public prison.

§ 5. Soldiers, Seamen, and Marines Not to Vote—Residence Of.

No soldier, seaman, or marine, in the army or navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State in consequence of having been stationed within the same; nor shall any such soldier, seaman, or marine have the right to vote.

§ 6. Negroes, Chinamen, Etc.

No negro, Chinaman, or mulatto shall have the right of suffrage.

(These restrictions upon the right of suffrage of negroes, mulattoes, Chinamen, and all persons born or naturalized in the United States, and subject to the jurisdiction thereof were abrogated by the fourteenth and fifteenth amendments to the Constitution of the United States.)

§ 7. Bribery at Elections.

Every person shall be disqualified from holding office during the term for which he may have been elected, who shall have given or offered a bribe, threat, or reward to procure his election.

§ 8. Election Laws.

The Legislative Assembly shall enact laws to support the privilege of free suffrage, prescribing the manner of regulating and conducting elections, and prohibiting, under adequate penalties, all undue influence therein from power, bribery, tumult, and other improper conduct.

§ 9. Penalty for Dueling.

Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or who shall agree to go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

§ 10. Lucrative Offices.

No person holding a lucrative office or appointment under the United States or under this State shall be eligible to a seat in the Legislative Assembly; nor shall any person hold more than one lucrative office at the same time, except as in this Constitution expressly permitted; provided that officers in the militia, to which there is attached no annual salary, and the office of postmaster, where the compensation does not exceed one hundred dollars per annum, shall not be deemed lucrative.

§ 11. Ineligibility to Office of Collector, When.

No person who may hereafter be a collector or holder of public moneys shall be eligible to any office of trust or profit, until he shall have accounted for and paid over, according to law, all sums for which he may be liable.

§ 12. Temporary Appointment to Office.

In all cases in which it is provided that an office shall not be filled by the same person more than a certain number of years continuously, an appointment pro tempore shall not be reckoned a part of that term.

§ 13. Privileges of Electors.

In all cases except treason, felony, and breach of the peace, electors shall be free from arrest in going to elections, during their attendance there, and in returning from the same; and no elector shall be obliged to do duty in the militia on any day of election, except in time of war or public danger.

§ 14. Time of Holding Elections.

The regular general biennial election in Oregon for the year A. D. 1910 and thereafter shall be held on the first Tuesday after the first Monday in November. All officers except the Governor, elected for a six-year term in 1904 or for a four-year term in 1906, or for a two-year term in 1908, shall continue to hold their respective offices until the first Monday in January, 1911; and all officers except the Governor, elected at any regular general biennial election after the adoption of this amendment, shall assume the duties of their respective offices on the first Monday in January following such election. All laws pertaining to the nomination of candidates, registration of voters, and all other things incident to the holding of the regular biennial election shall be enforced and be effected the same number of days before the first Tuesday after the first Monday in November that they have heretofore been before the first Monday in June biennially, except as may hereafter be provided by law.

NOTE.—The above section was proposed as an amendment by the Legislative Assembly (H. J. R. No. 7) filed in the office of the Secretary of State February 23, 1907, and adopted by vote of the people, 65,728 for and 18,590 against, June 1, 1908.

§ 15. How Votes To Be Given.

In all elections by the Legislative Assembly, or by either branch thereof, votes shall be given openly or viva voce, and not by ballot forever; and in all elections by the people, votes shall be given openly or viva voce, until the Legislative Assembly shall otherwise direct.

§ 16. Plurality Elects—Provision for Proportional Representation.

In all elections authorized by this Constitution until otherwise provided by law, the person or persons receiving the highest number of votes shall be declared elected, but provisions may be made by law for elections by equal proportional representation of all the voters for every office which is filled by the election of two or more persons whose official duties, rights, and powers are equal and concurrent. Every qualified elector resident in his precinct and registered as may be required by law, may vote for one person under the title for each office. Provision may be made by law for the voter's direct or indirect expression of his first, second or additional choices among the candidates for any office. For an office which is filled by the election of one person it may be required by law that the person elected shall be the final choice of a majority of the electors voting for candidates for that office. These principles may be applied by law to nominations by political parties and organizations.

NOTE.—The above section was proposed as an amendment by initiative petition filed January 30, 1908, and was adopted by vote of the people, 48,868 for and 34,128 against, June 1, 1908.

§ 17. Place of Voting.

All qualified electors shall vote in the election precinct in the county where they may reside for county officers, and in any county in the State for State officers, or in any county of a Congressional District in which such electors may reside for Members of Congress.

§ 18. Recall.

Every public officer in Oregon is subject, as herein provided, to recall by the legal voters of the State or of the electoral district from which he is elected. There may be required twenty-five per cent, but not more, of the number of electors who voted in his district at the preceding election for Justice of the Supreme Court to file their petition demanding his recall by the people. They shall set forth in said petition the reasons for said demand. If he shall offer his resignation, it shall be accepted and take effect on the day it is offered, and the vacancy shall be filled as may be provided by law. If he shall not resign within five days after the petition is filed, a special election shall be ordered to be held within twenty days in his said electoral district to determine whether the people will recall said officer. On the sample ballot at said election shall be printed in not more than two hundred words, the reasons for demanding the recall of said officer as set forth in the recall petition, and in not more than two hundred words, the officer's justification of his course in office. He shall continue to perform the duties of his office until the result of said special election shall be officially declared. Other candidates for the office may be nominated to be voted for at said special election. The candidate who shall receive the highest number of votes shall be deemed elected for the remainder of the term, whether it be the person against whom the recall petition was filed, or another. The recall petition shall be filed with the officer with whom a petition for nomination to such office should be filed, and the same officer shall order the special election when it is required. No such petition shall be circulated against any officer until he has actually held his office six months, save and except that it may be filed against a senator or representative in the Legislative Assembly at any time after five days from the beginning of the first session after his election. After one such petition and special election, no further recall

petition shall be filed against the same officer during the term for which he was elected unless such further petitioners shall first pay into the public treasury which has paid such special election expenses, the whole amount of its expenses for the preceding special election. Such additional legislation as may aid the operation of this section shall be provided by the Legislative Assembly, including provision for payment by the public treasury of the reasonable special election campaign expenses of such officer. But the words, "the Legislative Assembly shall provide," or any similar or equivalent words in this Constitution or any amendment thereto, shall not be construed to grant to the Legislative Assembly any exclusive power of law-making nor in any way to limit the initiative and referendum powers reserved by the people.

NOTE.—The above section was proposed as an amendment by initiative petition filed January 29, 1908, and adopted by vote of the people, 58,381 for and 31,002 against, June 1, 1908.

ARTICLE III.

DISTRIBUTION OF POWERS.

§ 1. Powers of Government.

The powers of the government shall be divided into three separate departments—the Legislative, the Executive, including the Administrative, and the Judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another, except as in this Constitution expressly provided.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

§ 1. Legislative Authority—Style of Bill—Initiative and Referendum. The legislative authority of the State shall be vested in a Legislative Assembly, consisting of a Senate and House of Representatives, but the people reserve to themselves power to propose laws and amendments to the constitution and to enact or reject the same at the polls, independent of the Legislative Assembly, and also reserve power at their own option to approve or reject at the polls any act of the Legislative Assembly. The first power reserved by the people is the initiative, and not more than eight per cent of the legal voters shall be required to propose any measure by such petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the Secretary of State not less than four months before the election at which they are to be voted upon. The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health, or safety), either by the petition signed by five per cent of the legal voters, or by the Legislative Assembly, as other bills are enacted. Referendum petitions shall be filed with the Secretary of State not more than ninety days after the final adjournment of the session of the Legislative Assembly which passed the bill on which the referendum is demanded. The veto power of the Governor shall not extend to measures referred to the people. All elections on measures referred to the people of the State shall be had at the biennial regular general elections, except when the Legislative Assembly shall order a special election. Any measure referred to the people shall take effect and become the law when it is approved

by a majority of the votes cast thereon, and not otherwise. The style of all bills shall be: "Be it enacted by the people of the State of Oregon." This section shall not be construed to deprive any member of the Legislative Assembly of the right to introduce any measure. The whole number of votes cast for Justice of the Supreme Court at the regular election last preceding the filing of any petition for the initiative or for the referendum shall be the basis on which the number of legal voters necessary to sign such petition shall be counted. Petitions and orders for the initiative and for the referendum shall be filed with the Secretary of State, and in submitting the same to the people he, and all other officers, shall be guided by the general laws and the act submitting this amendment, until legislation shall be especially provided therefor.

NOTE.—The above section is an amendment to the original Constitution, and was adopted by the Twentieth Legislative Assembly; adopted by the Twenty-first Legislative Assembly; adopted by the people, by vote of 62,024 for, to 5,668 against it, June 2, 1902.

§ 1a. Initiative and Referendum on Local, Special, and Municipal Laws, and Parts of Laws.

The referendum may be demanded by the people against one or more items, sections, or parts of any act of the Legislative Assembly in the same manner in which such power may be exercised against a complete act. The filing of a referendum petition against one or more items, sections, or parts of an act shall not delay the remainder of that act from becoming operative. The initiative and referendum powers reserved to the people by this Constitution are hereby further reserved to the legal voters of every municipality and district, as to all local, special, and municipal legislation, of every character, in or for their respective municipalities and districts. The manner of exercising said powers shall be prescribed by general laws, except that cities and towns may provide for the manner of exercising the initiative and referendum powers as to their municipal

legislation. Not more than ten per cent of the legal voters may be required to order the referendum nor more than fifteen per cent to propose any measure, by the initiative, in any city or town.

NOTE.—The above section was proposed as an amendment by initiative petition filed February 3, 1906, and adopted by vote of the people, 47,678 for and 16,735 against, June 4, 1906.

§ 2. Number of Senators and Representatives.

The Senate shall consist of sixteen, and the House of Representatives of thirty-four, members, which number shall not be increased until the year eighteen hundred and sixty, after which time the Legislative Assembly may increase the number of Senators and Representatives, always keeping, as near as may be, the same ratio as to the number of Senators and Representatives; provided, that the Senate shall never exceed thirty, and the House of Representatives sixty members.

§ 3. By Whom Chosen.

The Senators and Representatives shall be chosen by the electors of the respective counties or districts into which the State may from time to time be divided by law.

§ 4. Term of Office—Senators, How Classified.

The Senators shall be elected for the term of four years, and Representatives for the term of two years from the day next after their general election; provided, however, that the Senators elect, at the first session of the Legislative Assembly under this Constitution, shall be divided by lot into two equal classes, as nearly as may be; and the seats of Senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years; so that one-half, as nearly as possible, shall be chosen biennially forever thereafter. And in case of the increase in the number of Senators,

they shall be so annexed by lot to one or the other of the two classes as to keep them as nearly equal as possible.

§ 5. Census.

The Legislative Assembly shall, in the year eighteen hundred and sixty-five, and every ten years after, cause an enumeration to be made of all the white population of the State.

§ 6. Apportionment.

The number of Senators and Representatives shall, at the session next following an enumeration of the inhabitants by the United States or this State, be fixed by law, and apportioned among the several counties according to the number of white population in each. And the ratio of Senators and Representatives shall be determined by dividing the whole number of white population of such county or district, by such respective ratios; and when a fraction shall result from such division, which shall exceed one-half of such ratio, such county or district shall be entitled to a member for such fraction. And in case any county shall not have the requisite population to entitle such county to a member, then such county shall be attached to some adjoining county for senatorial or representative purposes.

§ 7. Senatorial Districts.

A senatorial district, when more than one county shall constitute the same, shall be composed of contiguous counties, and no county shall be divided in creating senatorial districts.

§ 8. Qualification of Senators, Etc.

No person shall be a Senator or Representative who, at the time of his election, is not a citizen of the United States; nor any one who has not been for one year next preceding his election an inhabitant of the county or district whence he may be chosen. Senators and Representatives shall be at least twenty-one years of age.

§ 9. When Free From Arrest—Words Uttered in Debate.

Senators and Representatives in all cases, except for treason, felony, or breaches of the peace, shall be privileged from arrest during the session of the Legislative Assembly, and in going to and returning from same; and shall not be subject to any civil process during the session of the Legislative Assembly, nor during the fifteen days next before the commencement thereof. Nor shall a member, for words uttered in debate in either House, be questioned in any other place.

§ 10. Sessions of the Legislative Assembly.

The sessions of the Legislative Assembly shall be held biennially at the Capital of the State, commencing on the second Monday of September, in the year eighteen hundred and fifty-eight, and on the same day of every second year thereafter, unless a different day shall have been appointed by law.

NOTE.—As allowed by the last clause in Section 10, the Legislative Assembly of the State, at its session held in 1882, passed an act changing the time of meeting of the assembly from that time forward to the second Monday in January, following each biennial election.

§ 11. Election of Officers—Judge of Qualification of Members, Etc.

Each House, when assembled, shall choose its own officers, judge of the election, qualifications, and returns of its own members, determine its own rules of proceeding, and sit upon its own adjournments; but neither House shall, without the concurrence of the other, adjourn for more than three days, nor to any other place than that in which it may be sitting.

§ 12. Quorum.

Two-thirds of each House shall constitute a quorum to do business, but a smaller number may meet, adjourn from day to day and compel the attendance of absent members. A quorum being in attendance, if either House fail to effect an organization within the first five days thereafter, the members of the

House so failing shall be entitled to no compensation from the end of the said five days until an organization shall have been effected.

§ 13. Journal—When Yeas and Nays To Be Entered.

Each House shall keep a journal of its proceedings. The yeas and nays on any question shall, at the request of any two members, be entered, together with the names of the members demanding the same, on the journal; provided, that on a motion to adjourn, it shall require one-tenth of the members present to order the yeas and nays.

§ 14. When Session May Be Secret.

The doors of each House, and of committees of the whole, shall be kept open, except in such cases as in the opinion of either House may require secrecy.

§ 15. Punishment of Members.

Either house may punish its members for disorderly behavior, and may, with the concurrence of two-thirds, expel a member; but not a second time for the same cause.

§ 16. Punishment of Person Not a Member.

Either House, during its session, may punish by imprisonment any person not a member, who shall have been guilty of disrespect to the House, by disorderly or contemptuous behavior in its presence, but such imprisonment shall not at any time exceed twenty-four hours.

§ 17. General Powers.

Each House shall have all powers necessary for a branch of the legislative department of a free and independent State.

§ 18. Bills—Where to Originate.

Bills may originate in either House, but may be amended or rejected in the other, except that bills for raising revenue shall originate in the House of Representatives.

§ 19. Reading of Bills and Vote on Final Passage.

Every bill shall be read by sections, on three several days, in each House, unless in case of emergency, two-thirds of the House where such bill may be pending, shall, by a vote of yeas or nays, deem it expedient to dispense with this rule; but the reading of a bill by sections on its final passage shall in no case be dispensed with, and the vote on the passage of every bill or joint resolution shall be taken by yeas and nays.

§ 20. Subject and Title of Act.

Every act shall embrace but one subject, and matters properly connected therewith, which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be expressed in the title.

§ 21. Act To Be Plainly Worded.

Every act and joint resolution shall be plainly worded, avoiding as far as practicable, the use of technical terms.

§ 22. Mode of Revision and Amendment.

No act shall ever be revised or amended by mere reference to its title, but the act revised or section amended shall be set forth and published at full length.

§ 23. What Local and Special Laws Prohibited.

The Legislative Assembly shall not pass special or local laws in any of the following enumerated cases, that is to say,—

1. Regulating the jurisdiction and duties of justices of the peace, and of constables;

2. For the punishment of crimes and misdemeanors;

3. Regulating the practice in courts of justice;

4. Providing for changing the venue in civil and criminal cases;

5. Granting divorces;

6. Changing the names of persons;

7. For laying, opening, and working on highways, and for the election or appointment of supervisors;

8. Vacating roads, town plats, streets, alleys, and public squares;

9. Summoning and empaneling grand and petit jurors;

10. For the assessment and collection of taxes for State, county, township, or road purposes;

11. Providing for supporting common schools, and for the preservation of school funds;

12. In relation to interest on money;

13. Providing for opening and conducting the elections of State, county, or township officers, and designating the places of voting;

14. Providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities, by executors, administrators, guardians, or trustees.

§ 24. Suit Against State.

Provision may be made by general law for bringing suit against the State, as to all liabilities originating after or existing at the time of the adoption of this Constitution; but no special act authorizing such suit to be brought or making compensation to any person claiming damages against the State, shall ever be passed.

§ 25. Majority Necessary to Pass a Bill—Bill To Be Signed by Presiding Officer.

A majority of all the members elected to each House shall be necessary to pass every bill or joint resolution; and all bills and joint resolutions so passed shall be signed by the presiding officers of the respective Houses.

§ 26. Protest.

Any member of either House shall have the right to protest, and have his protest, with his reasons for dissent, entered on the journal.

§ 27. What Statute a Public Law.

Every statute shall be a public law, unless otherwise declared in the statute itself.

§ 28. When Act to Take Effect.

No act shall take effect until ninety days from the end of the session at which the same shall have been passed, except in case of emergency; which emergency shall be declared in the preamble or in the body of the law.

§ 29. Compensation of Members.

The members of the Legislative Assembly shall receive for their services a sum not exceeding three dollars a day, from the commencement of the session; but such pay shall not exceed in the aggregate one hundred and twenty dollars for per diem allowance for any one session. When convened in extra session by the Governor, they shall receive three dollars per day; but no extra session shall continue for a longer period than twenty days. They shall also receive the sum of three dollars for every twenty miles they shall travel in going to and returning from their place of meeting, on the most usual route. The presiding officers of the assembly shall, in virtue of their office, receive an additional compensation equal to two-thirds of their per diem allowance as members.

§ 30. Members Not Eligible to Other Office.

No Senator or Representative shall, during the time for which he may have been elected, be eligible to any office, the election to which is vested in the Legislative Assembly; nor shall be appointed to any civil office of profit which shall have been created,

or the emoluments of which shall have been increased during such term, but this latter provision shall not be construed to apply to any officer elective by the people.

§ 31. Oath of Members.

The members of the Legislative Assembly shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the Constitution of the State of Oregon, and that I will faithfully discharge the duties of Senator (or Representative, as the case may be) according to the best of my ability."

And such oath may be administered by the Governor, Secretary of State, or Judge of the Supreme Court.

ARTICLE V.

EXECUTIVE DEPARTMENT.

§ 1. Executive Power—Term of Office.

The chief executive power of the State shall be vested in a Governor, who shall hold his office for the term of four years; and no person shall be eligible to such office more than eight in any period of twelve years.

§ 2. Qualifications of Governor.

No person, except a citizen of the United States, shall be eligible to the office of Governor, nor shall any person be eligible to that office who shall not have attained the age of thirty years, and who shall not have been three years next preceding his election a resident within this State.

§ 3. Who Not Eligible.

No member of Congress, or person holding any office under the United States, or under this State, or under any other power, shall fill the office of Governor, except as may be otherwise provided in this Constitution.

§ 4. Election of Governor.

The Governor shall be elected by the qualified electors of the State at the times and places of choosing members of the Legislative Assembly, and the returns of every election for Governor shall be sealed up and transmitted to the Secretary of State, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both Houses of the Legislative Assembly.

§ 5. In Case of Tie.

The person having the highest number of votes for Governor shall be elected; but in case two or more persons shall have an equal, and the highest number of votes for Governor, the two Houses of the Legislative Assembly, at the next regular session thereof, shall forthwith, by joint vote, proceed to elect one of the said persons Governor.

§ 6. Contested Elections.

Contested elections for Governor shall be determined by the Legislative Assembly in such manner as may be prescribed by law.

§ 7. Term of Office.

The official term of the Governor shall be four years; and shall commence at such times as may be provided by this Constitution, or prescribed by law.

§ 8. In Case of Vacancy or Disability.

In case of the removal of the Governor from office, or of his death, resignation, or inability to discharge the duties of the

office, the same shall devolve on the Secretary of State; and in case of the removal from office, death, resignation, or inability, both of the Governor and Secretary of State, the President of the Senate shall act as Governor, until the disability be removed, or a Governor be elected.

§ 9. Governor, Commander-in-Chief.

The Governor shall be commander-in-chief of the military and naval forces of this State, and may call out such forces to execute the laws, to suppress insurrection, or to repel invasion.

§ 10. To See That Laws Are Executed.

He shall take care that the laws be faithfully executed.

§ 11. To Make Recommendations to Legislature.

He shall, from time to time, give to the Legislative Assembly information touching the condition of the State, and recommend such measures as he shall judge to be expedient.

§ 12. May Convene Legislature.

He may, on extraordinary occasions, convene the Legislative Assembly by proclamation, and shall state to both Houses, when assembled, the purpose for which they shall have been convened.

§ 13. Transact Business With Officers.

He shall transact all necessary business with the officers of Government, and may require information in writing from the officers of the administrative and military departments upon any subject relating to the duties of their respective offices.

§ 14. May Grant Reprieves, Pardons, Etc.

He shall have power to grant reprieves, commutations, and pardons, after conviction, for all offenses except treason, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the Legislative Assem-

bly, at its next meeting, when the Legislative Assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law; and shall report to the Legislative Assembly, at its next meeting each case of reprieve, commutation, or pardon granted, and the reasons for granting the same; and also the names of all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted.

§ 15. Veto Power—Reconsideration of Vote by Legislature—Vote To Be by Yeas and Nays.

Every bill which shall have passed the Legislative Assembly shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to that House in which it shall have originated, which House shall enter the objections at large upon the journal, and proceed to reconsider it. If after such reconsideration two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for or against the bill shall be entered on the journal of each House respectively; if any bill shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, it shall be a law without his signature, unless the general adjournment shall prevent its return, in which case it shall be a law, unless the Governor within five days next after the adjournment (Sundays excepted) shall file such bill, with his objections thereto, in the office of Secretary of State,

who shall lay the same before the Legislative Assembly at its next session in like manner as if it had been returned by the Governor.

§ 16. Governor to Fill Vacancies by Appointment.

When during a recess of the Legislative Assembly a vacancy shall happen in any office, the appointment to which is vested in the Legislative Assembly, or when at any time a vacancy shall have occurred in any other State office, or in the office of judge of any court, the Governor shall fill such vacancy by appointment, which shall expire when a successor shall have been elected and qualified.

§ 17. Issue Writs of Election.

He shall issue writs of election to fill such vacancies as may have occurred in the Legislative Assembly.

§ 18. Commissions.

All commissions shall issue in the name of the State, shall be signed by the Governor, sealed with the seal of the State, and attested by the Secretary of State.

ARTICLE VI.

ADMINISTRATIVE DEPARTMENT.

§ 1. Election of Secretary and Treasurer of State.

There shall be elected by the qualified electors of the State, at the time and places of choosing members of the Legislative Assembly, a Secretary and Treasurer of State, who shall severally hold their offices for the term of four years; but no person shall be eligible to either of said offices more than eight in any period of twelve years.

§ 2. Duties of Secretary of State.

The Secretary of State shall keep a fair record of the official acts of the Legislative Assembly and executive department of the State; and shall, when required, lay the same and all matters relative thereto before either branch of the Legislative Assembly. He shall be, by virtue of his office, auditor of public accounts, and shall perform such other duties as shall be assigned him by law.

§ 3. Seal of State.

There shall be a Seal of State, kept by the Secretary of State for official purposes, which shall be called "The Seal of the State of Oregon."

§ 4. Power and Duties of Treasurer.

The powers and duties of the Treasurer of State shall be such as may be prescribed by law.

§ 5. Office and Records of Executive Officers.

The Governor and the Secretary and Treasurer of State shall severally keep the public records, books, and papers, in any manner relating to their respective offices, at the seat of government, at which place also the Secretary of State shall reside.

§ 6. County Officers.

There shall be elected in each county, by the qualified electors thereof, at the time of holding general elections, a county clerk, treasurer, sheriff, coroner, and surveyor, who shall severally hold their offices for the term of two years.

§ 7. Other Officers.

Such other county, township, precinct, and city officers as may be necessary shall be elected or appointed in such manner as may be prescribed by law.

§ 8. Qualifications of County Officers.

No person shall be elected or appointed to a county office who shall not be an elector of the county; and all county, township, precinct, and city officers shall keep their respective offices at such places therein, and perform such duties as may be prescribed by law.

§ 9. Vacancies, How Filled.

Vacancies in county, township, precinct, and city offices shall be filled in such manner as may be prescribed by law.

ARTICLE VII.

JUDICIAL DEPARTMENT.

§ 1. Judicial Power of State, in Whom Vested.

The judicial power of the State shall be vested in one Supreme Court and in such other courts as may from time to time be created by law. The Judges of the Supreme and other courts shall be elected by the legal voters of the State or of their respective districts for a term of six years, and shall receive such compensation as may be provided by law, which compensation shall not be diminished during the term for which they are elected.

§ 2. Supreme Court, Jurisdiction of, Etc.

The courts, jurisdiction, and judicial system of Oregon, except so far as expressly changed by this amendment, shall remain as at present constituted until otherwise provided by law. But the Supreme Court may, in its own discretion, take original jurisdiction in mandamus, quo warranto and habeas corpus proceedings.

§ 3. Actions at Law; Trials by Jury; Criminal Cases.

In actions at law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any

court of this State, unless the court can affirmatively say there is no evidence to support the verdict. Until otherwise provided by law, upon appeal of any case to the Supreme Court, either party may have attached to the bill of exceptions the whole testimony, the instructions of the court to the jury, and any other matter material to the decision of the appeal. If the Supreme Court shall be of opinion, after consideration of all the matters thus submitted, that the judgment of the court appealed from was such as should have been rendered in the case, such judgment shall be affirmed, notwithstanding any error committed during the trial; or if, in any respect, the judgment appealed from should be changed, and the Supreme Court shall be of opinion that it can determine what judgment should have been entered in the court below, it shall direct such judgment to be entered in the same manner and with like effect as decrees are now entered in equity cases on appeal to the Supreme Court; provided, that nothing in this section shall be construed to authorize the Supreme Court to find the defendant in a criminal case guilty of an offense for which a greater penalty is provided than that of which the accused was convicted in the lower court.

§ 4. Terms of Court.

The terms of the Supreme Court shall be appointed by law; but there shall be one term at the seat of government annually. At the close of each term the judges shall file with the Secretary of State concise written statements of the decisions made at that term.

§ 5. Verdict of Jury—Three-fourths to Rule.

In civil cases three-fourths of the jury may render a verdict. The Legislative Assembly shall so provide that the most competent of the permanent citizens of the county shall be chosen for jurors; and out of the whole number in attendance at the court, seven shall be chosen by lot as grand jurors, five of whom must

concur to find an indictment. But provision may be made by law for drawing and summoning the grand jurors from the regular jury list at any time, separate from the panel of petit jurors, and for the sitting of the grand jury during vacation as well as session of the court, as the judge may direct. No person shall be charged in any circuit court with the commission of any crime or misdemeanor defined or made punishable by any of the laws of this State, except upon indictment found by a grand jury; provided, however, that any district attorney may file an amended indictment whenever an indictment has, by a ruling of the court, been held to be defective in form.

§ 6. Malfeasance in Office—Manner of Removal.

Public officers shall not be impeached; but incompetency, corruption, malfeasance or delinquency in office may be tried in the same manner as criminal offenses, and judgment may be given of dismissal from office, and such further punishment as may have been prescribed by law.

§ 7. Oath of Office.

Every Judge of the Supreme Court, before entering upon the duties of his office, shall take and subscribe, and transmit to the Secretary of State, the following oath:

"I, ———— ————, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Oregon, and that I will faithfully and impartially discharge the duties of a Judge of the Supreme Court of this State, according to the best of my ability, and that I will not accept any other office, except judicial offices, during the term for which I have been elected."

NOTE 1.—All of Article VII was proposed as an amendment by initiative petition filed July 7, 1910, and adopted by vote of the people, 44,538 for and 39,399 against, November 8, 1910.

NOTE 2.—Article VII, prior to amendment as above, and which, in part, remains in effect until further legal enactment, was as follows:

ARTICLE VII.

§ 1. Judicial Power of State, in Whom Vested.

The judicial power of the State shall be vested in a Supreme Court, circuit courts, and county court, which shall be courts of record, having general jurisdiction, to be defined, limited, and regulated by law, in accordance with this Constitution. Justices of the peace may also be invested with limited judicial powers, and municipal courts may be created to administer the regulations of incorporated towns and cities.

§ 2. Supreme Court.

The Supreme Court shall consist of four Justices, to be chosen in districts by the electors thereof, who shall be citizens of the United States, and who shall have resided in the State at least three years next preceding their election, and after their election, to reside in their respective districts. The number of Justices and districts may be increased, but shall not exceed five, until the white population of the State shall amount to one hundred thousand, and shall never exceed seven; and the boundaries of districts may be changed, but no change of district shall have the effect to remove a Judge from office, or require him to change his residence without his consent.

NOTE.—Number of judges of Supreme Court was enlarged to five by Chapter 5, Laws of 1909, which was declared constitutional by decision in State *v.* Cochran, 55 Or. 157, 105 Pac. 884. The number of judges was increased to seven by Chapter 167, Laws of 1913.

§ 3. Term of Office.

The Judges first chosen under this Constitution shall allot among themselves their terms of office, so that the term of one of them shall expire in two years, one in four years, and two in six years, and thereafter one or more shall be chosen every two years, to serve for the term of six years.

§ 4. Vacancy.

Every vacancy in the office of Judge of the Supreme Court shall be filled by election for the remainder of the vacant term, unless it would expire at the next election, and until so filled, or when it would so expire, the Governor shall fill the vacancy by appointment.

§ 5. Who To Be Chief Justice.

The Judge who has the shortest term to serve, or the oldest of several having such shortest term, and not holding by appointment, shall be the Chief Justice.

§ 6. Jurisdiction.

The Supreme Court shall have jurisdiction only to revise the final decisions of the circuit courts; and every cause shall be tried, and every decision shall be made by those judges only, or a majority of them, who did not try the cause or make the decision in the circuit court.

§ 7. Terms of Supreme Court.

The terms of the Supreme Court shall be appointed by law, but there shall be one term at the seat of government annually. And at the close of each term the Judges shall file with the Secretary of State concise written statements of the decisions made at that term.

§ 8. Circuit Courts.

The circuit court shall be held twice, at least, in each year, in each county organized for judicial purposes, by one of the Justices of the Supreme Court, at times to be appointed by law; and at such other times as may be appointed by the Judges severally, in pursuance of law.

§ 9. Jurisdiction of Circuit Courts.

All judicial power, authority, and jurisdiction not vested by this Constitution, or by laws consistent therewith, exclusively in

some other court, shall belong to the circuit courts; and they shall have appellate jurisdiction and supervisory control over the county courts, and all other inferior courts, officers, and tribunals.

§ 10. When Supreme and Circuit Judges May Be Elected in Distinct Classes—Duties of Judges.

When the white population of the State shall amount to two hundred thousand, the Legislative Assembly may provide for the election of Supreme and Circuit Judges in distinct classes, one of which classes shall consist of three Justices of the Supreme Court, who shall not perform circuit duty, and the other class shall consist of the necessary number of circuit judges, who shall hold full terms without allotment, and who shall take the same oath as the Supreme Judges.

(See note following Section 2, page 180.)

§ 11. County Judges and Terms of County Court.

There shall be elected in each county, for the term of four years, a county judge, who shall hold the county court at times to be regulated by law.

§ 12. Jurisdiction of County Courts—County Commissioners.

The county court shall have the jurisdiction pertaining to probate courts, and boards of county commissioners, and such other powers and duties, and such civil jurisdiction not exceeding the amount of value of five hundred dollars, and such criminal jurisdiction not extending to death or imprisonment in the penitentiary, as may be prescribed by law. But the Legislative Assembly may provide for the election of two commissioners to sit with the county judge whilst transacting county business in any or all the counties, or may provide a separate board for transacting such business.

§ 13. Writs Granted by County Judge—Habeas Corpus.

The county judge may grant preliminary injunctions, and such other writs as the Legislative Assembly may authorize him to grant, returnable to the circuit court, or otherwise, as may be provided by law; and may hear and decide questions arising upon habeas corpus; provided, such decision be not against the authority or proceedings of a court or judge of equal or higher jurisdiction.

§ 14. Expenses of Court in Certain Counties.

The counties having less than ten thousand white inhabitants shall be reimbursed, wholly or in part, for the salary and expenses of the county court, by fees, percentage, and other equitable taxation of the business done in said court, and in the office of the county clerk.

§ 15. County Clerk, Etc.—Legislature May Divide Duties of County Clerk.

A county clerk shall be elected in each county for the term of two years, who shall keep all the public records, books, and papers of the county, record conveyances, and perform the duties of clerk of the circuit and county courts, and such other duties as may be prescribed by law; but whenever the number of voters in any county shall exceed twelve hundred, the Legislative Assembly may authorize the election of one person as clerk of the circuit court, one person as clerk of the county court, and one person recorder of conveyances.

§ 16. Sheriff.

A sheriff shall be elected in each county for the term of two years, who shall be the ministerial officer of the circuit and county courts, and shall perform such other duties as may be prescribed by law.

§ 17. Prosecuting Attorneys.

There shall be elected by districts comprised of one or more counties, a sufficient number of prosecuting attorneys, who shall be the law officers of the State, and of the counties within their respective districts, and shall perform such duties pertaining to the administration of law and general police as the Legislative Assembly may direct.

§ 18. Jurors.

The Legislative Assembly shall so provide that the most competent of the permanent citizens of the county shall be chosen for jurors; and out of the whole number in attendance at the court, seven shall be chosen by lot as grand jurors, five of whom must concur to find an indictment. No person shall be charged in any circuit court with the commission of any crime or misdemeanor defined or made punishable by any of the laws of this State, except upon indictment found by a grand jury; provided, however, that any district attorney may file an amended indictment whenever an indictment has, by a ruling of the court, been held to be defective in form.

NOTE.—The above section was proposed by initiative petition filed January 30, 1908, and was adopted by vote of the people, 52,214 for and 28,487 against, June 1, 1908.

§ 19. Official Delinquencies.

Public officers shall not be impeached; but incompetency, corruption, malfeasance, or delinquency in office may be tried in the same manner as criminal offenses, and judgment may be given of dismissal from office, and such further punishment as may have been prescribed by law.

§ 20. Removal of Judges.

The Governor may remove from office a Judge of the Supreme Court, or prosecuting attorney, upon a joint resolution of the Legislative Assembly, in which two-thirds of the members elected

to each House shall concur, for incompetency, corruption, malfeasance, or delinquency in office, or other sufficient cause stated in such resolution.

§ 21. Oath of Office.

Every Judge of the Supreme Court, before entering upon the duties of his office, shall take, and subscribe, and transmit to the Secretary of State, the following oath:

"I, ———— ————, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Oregon; and that I will faithfully and impartially discharge the duties of a Judge of the Supreme and Circuit Courts of said State, according to the best of my ability, and that I will not accept any other office, except judicial offices, during the term for which I have been elected."

ARTICLE VIII.

EDUCATION AND SCHOOL LANDS.

§ 1. Superintendent of Public Instruction.

The Governor shall be Superintendent of Public Instruction, and his powers and duties in that capacity shall be such as may be prescribed by law; but after the term of five years from the adoption of this Constitution, it shall be competent for the Legislative Assembly to provide by law for the election of a Superintendent, to provide for his compensation, and prescribe his powers and duties.

§ 2. Common School Fund.

The proceeds of all the lands which have been, or hereafter may be, granted to this State, for educational purposes (excepting the lands heretofore granted to and (aid) in the establishment of a university), all the moneys and clear proceeds of all property which may accrue to the State by escheat or forfeiture;

all moneys which may be paid as exemption from military duty; the proceeds of all gifts, devises and bequests, made by any person to the State for common school purposes; the proceeds of all property granted to the State, when the purposes of such grant shall not be stated; all the proceeds of the five hundred thousand acres of land to which the State is entitled by the provisions of an Act of Congress, entitled "An Act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights, approved September 4, 1841," and also the five per centum of the net proceeds of the sales of the public lands, to which this State shall become entitled on her admission into the Union (if Congress shall consent to such appropriation of the two grants last mentioned) shall be set apart as a separate and irreducible fund, to be called the Common School Fund, the interest of which, together with all other revenues derived from the school land mentioned in this section, shall be exclusively applied to the support and maintenance of common schools in each school district, and the purchase of suitable libraries and apparatus therefor.

§ 3. System of Common Schools.

The Legislative Assembly shall provide by law for the establishment of a uniform and general system of common schools.

§ 4. Distribution of School Fund.

Provision shall be made by law for the distribution of the income of the common school fund among the several counties of the State, in proportion to the number of children resident therein, between the ages of four and twenty years.

§ 5. Sale of School Lands.

The Governor, Secretary of State, and State Treasurer shall constitute a board of commissioners for the sale of school and university lands, and for the investment of the funds arising therefrom, and their powers and duties shall be such as may be pre-

scribed by law; provided, that no part of the university funds, or of the interest arising therefrom, shall be expended until the period of ten years from the adoption of this Constitution, unless the same shall be otherwise disposed of by the consent of Congress for common school purposes.

ARTICLE IX.

FINANCE.

§ 1. Assessment and Taxation.

The Legislative Assembly shall provide by law for uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, or charitable purposes, as may be specially exempted by law.

§ 1a. Tax Exemption.

No poll or head tax shall be levied or collected in Oregon. The Legislative Assembly shall not declare an emergency in any act regulating taxation or exemption.

NOTE.—The preceding section was proposed as an amendment by initiative petition filed February 27, 1911, and adopted by vote of the people, 63,881 for and 47,150 against, November 5, 1912.

§ 2. Current Expenses.

The Legislative Assembly shall provide for raising revenue sufficient to defray the expenses of the State for each fiscal year, and also a sufficient sum to pay the interest on the State debt, if there be any.

§ 3. Law Levying Tax.

No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

§ 4. How Money Drawn.

No money shall be drawn from the treasury but in pursuance of appropriations made by law.

§ 5. Publication of Accounts.

An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the Legislative Assembly.

§ 6. Tax for Deficiency.

Whenever the expenses of any fiscal year shall exceed the income, the Legislative Assembly shall provide for levying a tax for the ensuing fiscal year, sufficient with other sources of income, to pay the deficiency, as well as the estimated expense of the ensuing fiscal year.

§ 7. Appropriations.

Laws making appropriations for the salaries of public officers and other current expenses of the State, shall contain provisions upon no other subject.

§ 8. Stationery, How Furnished.

All stationery required for the use of the State shall be furnished by the lowest responsible bidder, under such regulations as may be prescribed by law. But no State officer, or member of the Legislative Assembly, shall be interested in any bid or contract for furnishing such stationery.

ARTICLE X.

MILITIA.

§ 1. Militia; Qualifications.

The militia of this State shall consist of all able-bodied male citizens between the ages of eighteen and forty-five years, except such persons as now are or hereafter may be exempted by the laws of the United States or of this State.

§ 2. Who Exempt.

Persons, whose religious tenets or conscientious scruples forbid them to bear arms, shall not be compelled to do so in time of peace, but shall pay an equivalent for personal service.

§ 3. Officers.

The Governor shall appoint the Adjutant-General and the other chief officers of the general staff, and his own staff, and all officers of the line shall be elected by the persons subject to military duty in their respective districts.

§ 4. Staff Officers—Governor to Commission.

The Majors-General, Brigadiers-General, Colonels or Commandants of regiments, battalions, or squadrons, shall severally appoint their staff officers, and the Governor shall commission all officers of the line and staff ranking as such.

§ 5. Legislature to Make Regulations for Militia.

The Legislative Assembly shall fix by law the method of dividing the militia into divisions, brigades, regiments, battalions, and companies, and make all other needful rules and regulations in such manner as they may deem expedient, not incompatible with the Constitution or laws of the United States, or of the Constitution of this State, and shall fix the rank of all staff officers.

ARTICLE XI.

CORPORATIONS AND INTERNAL IMPROVEMENTS.

§ 1. Prohibition of State Banks.

The Legislative Assembly shall not have the power to establish or incorporate any bank, or banking company, or moneyed institution whatever; nor shall any bank, company, or institution exist in the State with the privilege of making, issuing, or putting into circulation any bill, check, certificate, promissory note, or other paper, or the paper of any bank, company, or person, to circulate as money.

§ 2. Corporation Formed Under General Law, Not Special—Municipal Charters Enacted Only by People.

Corporations may be formed under general laws, but shall not be created by the Legislative Assembly by special laws. The Legislative Assembly shall not enact, amend or repeal any charter or act of incorporation for any municipality, city or town. The legal voters of every city and town are hereby granted power to enact and amend their municipal charter, subject to the Constitution and criminal laws of the State of Oregon, and the exclusive power to license, regulate, control, or to suppress or prohibit, the sale of intoxicating liquors therein is vested in such municipality; but such municipality shall within its limits be subject to the provisions of the local option law of the State of Oregon.

NOTE.—The foregoing section was proposed by initiative petition filed June 23, 1910, and adopted by vote of the people, 53,321 for and 50,779 against, November 8, 1910. That part of the section restricting the Legislature's power over municipal charters and granting autonomy to cities and towns was proposed by initiative and adopted at the general election held June 4, 1906.

§ 3. Liability of Stockholders.

The stockholders of all corporations and joint stock companies shall be liable for the indebtedness of said corporation to the amount of their stock subscribed and unpaid and no more, excepting that the stockholders of corporations or joint stock companies conducting the business of banking shall be individually liable equally and ratably and not one for another, for the benefit of the depositors of said bank, to the amount of their stock, at the par value thereof, in addition to the par value of such shares.

NOTE.—The foregoing section was proposed as an amendment by S. J. R. 13 of the Twenty-sixth Legislative Assembly and adopted by vote of the people, 82,981 for and 21,738 against, November 5, 1912.

§ 4. Compensation for Property Taken by Corporation.

No person's property shall be taken by any corporation, under authority of law, without compensation being first made or secured in such manner as may be prescribed by law.

§ 5. Restriction Upon Municipal Corporations.

Acts of Legislative Assembly incorporating towns and cities shall restrict their powers of taxation, borrowing money, contracting debts, and loaning their credit.

§ 6. State Not To Be Stockholder in Company.

The State shall not subscribe to or be interested in the stock of any company, association, or corporation.

§ 7. Credit of State Not To Be Loaned—Limitation Upon Power of Contracting Debts.

The Legislative Assembly shall not lend the credit of the State nor in any manner create any debt or liabilities which shall singly or in the aggregate with previous debts or liabilities exceed the sum of fifty thousand dollars, except in case of war or to repel invasion or suppress insurrection or to build and maintain

permanent roads; and the Legislative Assembly shall not lend the credit of the State nor in any manner create any debt or liabilities to build and maintain permanent roads which shall singly or in the aggregate with previous debts or liabilities incurred for that purpose exceed two per cent of the assessed valuation of all the property in the State; and every contract of indebtedness entered into or assumed by or on behalf of the State in violation of the provisions of this section shall be void and of no effect.

NOTE.—The foregoing section was proposed as an amendment by initiative petition filed July 2, 1912, and adopted by vote of the people, 59,542 for and 43,447 against, November 5, 1912.

§ 8. State Not to Assume County Debt, Except in What Case.

The State shall never assume the debts of any county, town, or other corporation whatever, unless such debts shall have been created to repel invasion, suppress insurrection, or defend the State in war.

§ 9. Prohibition Upon Municipal Corporations.

No county, city, town, or other municipal corporation, by a vote of its citizens or otherwise, shall become a stockholder in any joint stock company, corporation, or association whatever, or raise money for, or loan its credit to, or in aid of, any such company, corporation, or association.

§ 10. Limitation Upon Powers of County to Contract Debts.

No county shall create any debts or liabilities which shall singly or in the aggregate with previous debts or liabilities exceed the sum of five thousand dollars, except to suppress insurrection or repel invasion or to build and maintain permanent roads within the county; and debts for permanent roads shall be incurred only on approval of a majority of those voting on the question, and shall not either singly or in the aggregate with

previous debts and liabilities incurred for that purpose exceed two per cent of the assessed valuation of all the property in the county.

NOTE.—The foregoing section was proposed as an amendment by initiative petition filed July 2, 1912, and adopted by the people, 57,258 for and 43,858 against, November 5, 1912.

ARTICLE XII.

STATE PRINTER.

§ 1. Election, Qualifications, Duties, Compensation, Etc.

Laws may be enacted providing for the State printing and binding, and for the election or appointment of a State Printer, who shall have had not less than ten years' experience in the art of printing. The State Printer shall receive such compensation as may from time to time be provided by law. Until such laws shall be enacted the State Printer shall be elected and the printing done as heretofore provided by this Constitution and the general laws.

NOTE 1.—The above section was proposed by initiative petition filed February 3, 1906, and adopted by vote of the people, 63,479 for and 9,571 against, June 4, 1906.

NOTE 2.—The section as originally adopted and which remains in effect until changed by legal enactment, is as follows: "There shall be elected by the qualified electors of the State, at the times and places of choosing members of the Legislative Assembly, a State Printer, who shall hold his office for the term of four years. He shall perform all the public printing for the State, which may be provided by law. The rates to be paid to him for such printing shall be fixed by law, and shall neither be increased nor diminished during the term for which he shall have been elected. He shall give such security for the performance of his duties as the Legislative Assembly may provide."

ARTICLE XIII.

SALARIES.

§ 1. Salaries of State Officers.

The Governor shall receive an annual salary of fifteen hundred dollars. The Secretary of State shall receive an annual salary of fifteen hundred dollars. The Treasurer of State shall receive an annual salary of eight hundred dollars. The Judges of the Supreme Court shall each receive an annual salary of two thousand dollars. They shall receive no fees or perquisites whatever for the performance of any duties connected with their respective offices; and the compensation of officers, if not fixed by this Constitution, shall be provided by law.

NOTE—The Secretary of State, while performing the duties of Governor as prescribed in Section 8, Article V, ante, is entitled to the salary of the Governor: Chadwick v. Earhart, 11 Or. 389, 5 Pac. 1180.

By act of the Legislative Assembly, 1905 session, the salary of the Governor was increased to $5,000 per annum; the Secretary of State to $4,500 per annum; the State Treasurer to $4,500 per annum, and the Attorney General to $3,600 per annum. The salaries provided in this act are in lieu of all salaries, fees, commissions, and emoluments theretofore received and enjoyed by any of the said officers and all such fees, commissions, etc., must be turned in to the general fund of the treasury. The Legislative Assembly of 1907 increased the salaries of the Justices of the Supreme Court from $2,000 to $4,500 per annum, and the Legislative Assembly of 1911 enacted a law placing the State Printer upon a flat salary of $4,000 per annum, which goes into effect January 1, 1915.

ARTICLE XIV.

SEAT OF GOVERNMENT.

§ 1. Seat of Government To Be Determined by Vote of People.

The Legislative Assembly shall not have power to establish a permanent seat of government for this State. But at the first regular session after the adoption of this Constitution, the Legislative Assembly shall provide by law for the submission to the electors of this State at the next general election thereafter, the matter of the selection of a place for a permanent seat of government; and no place shall ever be the seat of government under such law, which shall not receive a majority of all the votes cast on the matter of such election.

At an election in 1864, Salem received a majority of all votes cast upon the question of location of seat of government and was declared "the permanent seat of government."

§ 2. State House.

No tax shall be levied, or money of the State expended, or debt contracted for the erection of a State House prior to the year eighteen hundred and sixty-five.

§ 3. Seat of Government, How Removed—Public Institutions, Location Of.

The seat of government, when established as provided in section 1, shall not be removed for a term of twenty (20) years from the time of such establishment, nor in any other manner than as provided in the first section of this article. All the public institutions of the State, not located elsewhere prior to January 1, 1907, shall be located in the county where the seat of government is, excepting when otherwise ordered by an act of the Legislative Assembly and is ratified by the electors of the State at the next

general election following such act, by a majority of all the votes cast on the question of whether or not such act shall be ratified.

NOTE.—The above section was proposed by the Legislative Assembly (S. J. R. No. 1) filed February 13, 1907, and adopted by vote of the people, 41,975 for and 40,868 against, June 1, 1908.

ARTICLE XV.

MISCELLANEOUS.

§ 1. Officers to Hold Until Successors Elected—Exception.

All officers, except members of the Legislative Assembly, shall hold their offices until their successors are elected and qualified.

§ 2. Tenure of Office.

When the duration of any office is not provided for by this Constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the Legislative Assembly shall not create any office, the tenure of which shall be longer than four years.

§ 3. Oath of Officers.

Every person elected or appointed to any office under this Constitution shall, before entering on the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this State, and also an oath of office.

§ 4. Lotteries Prohibited.

Lotteries, and the sale of lottery tickets, for any purpose whatever, are prohibited, and the Legislative Assembly shall prevent the same by penal laws.

§ 5. Property of Married Women.

The property and pecuniary rights of every married woman, at the time of marriage, or afterwards acquired by gift, devise,

or inheritance, shall not be subject to the debts or contracts of the husband; and laws shall be passed providing for the registration of the wife's separate property.

§ 6. New Counties.

No county shall be reduced to an area of less than four hundred square miles; nor shall any new county be established in this State containing a less area, nor unless such new county shall contain a population of at least twelve hundred inhabitants.

§ 7. No Officers to Receive Fee, in What Cases.

No State officers or members of the Legislative Assembly shall directly or indirectly receive a fee, or be engaged as counsel, agent, or attorney in the prosecution of any claim against the State.

§ 8. Chinamen Not to Hold Real Estate or Work Mining Claims.

No Chinaman, not a resident of the State at the adoption of this Constitution, shall ever hold any real estate or mining claim, or work any mining claim therein. The Legislative Assembly shall provide by law in the most effectual manner for carrying out the above provisions. (Inoperative.)

NOTE.—The Supreme Court, in the decision of the case of Chapman *v.* Toy Long, 4 Saw. 36, intimates that under the treaty of 1868, Article VI (Pub. Treaty 148), that a mining regulation which forbids Chinamen from working mining claims for themselves or others, as well as this clause of the State Constitution, are in direct conflict with such treaty, but the question was not judicially passed upon: Chapman *v.* Toy Long, 4 Saw. 28. Hence the provisions of Section 8 of this article have never been enforced.

ARTICLE XVI.

BOUNDARIES.

§ 1. Boundaries of State.

In order that the boundaries of the State may be known and established, it is hereby ordained and declared that the State of Oregon shall be bounded as follows, to-wit:

Beginning one marine league at sea, due west from the point where the forty-second parallel of north latitude intersects the same; thence northerly at the same distance from the line of the coast lying west and opposite the State, including all islands within the jurisdiction of the United States to a point due west and opposite the middle of the north ship channel of the Columbia River; thence easterly to and up the middle channel of said river, and when it is divided by islands, up the middle of the widest channel thereof, and in like manner up the middle of the main channel of Snake River to the mouth of the Owyhee River; thence due south to the parallel of latitude forty-two degrees north; thence west along said parallel to the place of beginning, including jurisdiction in civil and criminal cases upon the Columbia River and Snake River, concurrently with states and territories of which those rivers form a boundary in common with this State. But the Congress of the United States, in providing for the admission of this State into the Union, may make the said northern boundary conform to the act creating the Territory of Washington.

ARTICLE XVII.

AMENDMENTS.

§ 1. Amendments to Constitution, How Made.

Any amendment or amendments to this Constitution may be proposed in either branch of the Legislative Assembly, and if the same shall be agreed to by a majority of all the members elected to each of the two houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered in their journals and referred by the Secretary of State to the people for their approval or rejection, at the next regular general election, except when the Legislative Assembly shall order a special election for that purpose. If a majority of the electors voting on any such amendment shall vote in favor thereof, it shall thereby become a part of this Constitution. The votes for and against such amendment or amendments, severally, whether proposed by the Legislative Assembly or by initiative petition, shall be canvassed by the Secretary of State in the presence of the Governor, and if it shall appear to the Governor that the majority of the votes cast at said election on said amendment or amendments, severally, are cast in favor thereof, it shall be his duty forthwith after such canvass, by his proclamation, to declare the said amendment or amendments, severally, having received said majority of votes to have been adopted by the people of Oregon as part of the Constitution thereof, and the same shall be in effect as a part of the Constitution from the date of such proclamation. When two or more amendments shall be submitted in the manner aforesaid to the voters of this State, at the same election, they shall be so submitted that each amendment shall be voted on separately. No convention shall be called to amend or propose amendments to this Constitution, or to pro-

pose a new Constitution, unless the law providing for such convention shall first be approved by the people on a referendum vote at a regular general election. This article shall not be construed to impair the right of the people to amend this Constitution by vote upon an initiative petition therefor.

NOTE.—The above section, which takes the place of the original Sections 1 and 2, was proposed by initiative petition, filed February 3, 1906, and adopted by vote of the people, 47,661 for and 18,751 against, June 4, 1906.

ARTICLE XVIII.

SCHEDULE.

§ 1. Election for Acceptance or Rejection of the Constitution.

For the purpose of taking the vote of the electors of the State for the acceptance or rejection of this Constitution, an election shall be held on the second Monday of November, in the year 1857, to be conducted according to existing laws regulating the election of Delegate in Congress, so far as applicable, except as herein otherwise provided.

§ 2. Questions—Returns of Election.

Each elector who offers to vote upon this Constitution shall be asked by the judges of election this question:

Do you vote for the Constitution—yes, or no?

And also this question:

Do you vote for slavery in Oregon—yes, or no?

And also this question:

Do you vote for free negroes in Oregon—yes, or no?

And in the poll books shall be columns headed respectively, "Constitution, yes"; "Constitution, no"; "free negroes, yes"; "free negroes, no"; "slavery, yes"; "slavery, no."

And the names of the electors shall be entered in the poll books, together with their answers to the said questions, under their appropriate heads. The abstracts of the votes transmitted

to the Secretary of the Territory shall be publicly opened and canvassed by the Governor and Secretary, or by either of them, in the absence of the other; and the Governor, or in his absence the Secretary, shall forthwith issue his proclamation, and publish the same in the several newspapers printed in this State, declaring the result of the said election upon each of said questions.

§ 3. When Constitution To Be Deemed Accepted or Rejected.

If a majority of all the votes given for and against the Constitution shall be given for the Constitution, then this Constitution shall be deemed to be approved and accepted by the electors of the State, and shall take effect accordingly; and if a majority of such votes shall be given against the Constitution, then this Constitution shall be deemed to be rejected by the electors of the State, and shall be void.

§ 4. Vote on Certain Sections of Constitution.

If this Constitution shall be accepted by the electors, and a majority of all the votes given for and against slavery shall be given for slavery, then the following section shall be added to the bill of rights, and shall be part of this Constitution:

"Section —. Persons lawfully held as slaves in any State, Territory, or district of the United States, under the laws thereof, may be brought into this State; and such slaves and their descendants may be held as slaves within this State, and shall not be emancipated without the consent of their owners."

And if a majority of such votes shall be given against slavery, then the foregoing section shall not, but the following section shall, be added to the bill of rights, and shall be a part of this Constitution:

"Section —. There shall be neither slavery nor involuntary servitude in the State, otherwise than as a punishment for crime, whereof the party shall have been duly convicted."

And if a majority of all the votes given for and against free negroes shall be given against free negroes, then the following section shall be added to the bill of rights, and shall be a part of this Constitution:

"Section —. No free negro or mulatto, not residing in this State at the time of the adoption of this Constitution, shall come, reside, or be within this State, or hold any real estate, or make any contracts, or maintain any suit therein; and the Legislative Assembly shall provide by penal laws for the removal by public officers of all such negroes and mulattoes, and for their effectual exclusion from the State, and for the punishment of persons who shall bring them into the State, or employ or harbor them."

§ 5. Apportionment of Senators and Representatives.

Until an enumeration of the white inhabitants of the State shall be made, and the Senators and Representatives apportioned as directed in the Constitution, the county of Marion shall have two Senators and four Representatives; Linn, two Senators and four Representatives; Lane, two Senators and three Representatives; Clackamas and Wasco, one Senator jointly, and Clackamas three Representatives, and Wasco one Representative; Yamhill, one Senator and two Representatives; Polk, one Senator and two Representatives; Benton, one Senator and two Representatives; Multnomah, one Senator and two Representatives; Washington, Columbia, Clatsop, and Tillamook, one Senator jointly; and Washington one Representative, and Washington and Columbia one Representative jointly, and Clatsop and Tillamook one Represenative jointly; Douglas, one Senator and two Representatives; Jackson, one Senator and three Representatives; Josephine, one Senator and one Representative; Umpqua, Coos, and Curry, one Senator jointly, and Umpqua one Representative, and Coos and Curry one Represenative jointly.

§ 6. Election Under Constitution and Organization of State.

If this Constitution shall be ratified, an election shall be held on the first Monday in June, 1858, for the election of members of the Legislative Assembly, a Representative in Congress, and State and county officers; and the Legislative Assembly shall convene at the Capital on the first Monday of July, 1858, and proceed to elect two Senators in Congress, and make such further provision as may be necessary to the complete organization of a State government.

§ 7. Former Laws in Force.

All laws in force in the Territory of Oregon when this Constitution takes effect, and consistent therewith, shall continue in force until altered or repealed.

§ 8. Officers to Continue in Office.

All officers of the Territory of Oregon, or under its laws, when this Constitution takes effect, shall continue in office until superseded by the State authorities.

§ 9. Crimes Against Territory.

Crimes and misdemeanors committed against the Territory of Oregon shall be punished by the State as they might have been punished by the Territory if the change of government had not been made.

§ 10. Saving of Existing Rights and Liabilities.

All property and rights of the Territory, and of the several counties, subdivisions, and political bodies corporate, of or in the Territory, including fines, penalties, forfeitures, debts, and claims of whatsoever nature, and recognizances, obligations, and undertakings, to or for the use of the Territory, or any county, political corporation, office, or otherwise, to or for the public, shall inure to the State, or remain to the county, local division,

corporation, officer, or public, as if the change of government had not been made; and private rights shall not be affected by such change.

§ 11. Judicial Districts.

Until otherwise provided by law, the judicial districts of the State shall be constituted as follows: The counties of Jackson, Josephine, and Douglas shall constitute the First District. The counties of Umpqua, Coos, and Curry, Lane and Benton, shall constitute the Second District. The counties of Linn, Marion, Polk, Yamhill, and Washington shall constitute the Third District. The counties of Clackamas, Multnomah, Wasco, Columbia, Clatsop, and Tillamook shall constitute the Fourth District; and the county of Tillamook shall be attached to the county of Clatsop for judicial purposes.

INDEX.

ABSTRACT OF VOTES

Page.

By whom made..... 82
When made..... 82
To whom sent.....83, 84
By whom canvassed..... 84

AMENDMENT

Sec. 1, Art. IV, Const..... 1
Sec. 1a, Art. IV, Const..... 3
Sec. 2, Art. XI, Const..... 4
Construed by Court.....13, 14, 15, 16, 27

ARGUMENTS

When to be filed..... 8
Who may file..... 8
Who to bear expense of printing..... 8

ASSEMBLY OF ELECTORS

May nominate candidates..... 120
May reconvene and fill vacancies..... 122

ATTORNEY GENERAL

To prepare ballot title..... 7

BALLOT

When arranged by Secretary of State..... 69
Sent to County Clerk..... 69
Local officer to prepare and post..... 69
Arrangement of..... 70
Color of ballots..... 70
Form 73
Rotating names on..... 78
Official and sample..... 79
Spoiled, how disposed of..... 130

BALLOT BOXES

Provisions relating to..... 80

INDEX.

CAMPAIGN BOOK — *Page.*

Space for President 50
Space for Vice-President 50
Space for Senator in Congress 50
Space for Representative in Congress 50
Payment for space 51

CAMPAIGNING

For initiative measures 33

CANDIDATES

For President 47
For Vice-President 47
For delegate to National Convention 48
For presidential elector 49
For municipal offices 53
For national committeeman 61
To file petitions for nomination 62
Register of, to be kept 67
Death or withdrawal of 68
Rotation of names on ballot 78
For Senator in Congress 82
Penalty for wrongful acts of 90

CANVASS OF VOTES

By whom made 82
By State officers 84

CITIES

Powers reserved to voters of 3, 4, 15, 16, 17, 24, 25, 26, 27
Number of voters on initiative petition in 3
Number of voters on referendum petition in 3
Procedure under initiative in
What officers to act 10
Pamphlet, expenses of 10
Affirmative argument 10
Negative argument 10
Number of signers required 11
Petition, with whom filed 11
Duties of Clerk 11
Council to act when 11
Competing ordinance 11
Conflicting ordinances 11
Council may submit amendments to charter 11
Special elections 12

CITIES—Continued *Page.*

Procedure under referendum in
Petitions 12
Number of signers required..... 12
Petitions filed with clerk..... 12
When measure becomes operative..... 12
Emergency measure..... 12
Procedure under Direct Primary in..... 53

CITY CLERK

Duties under initiative and referendum.....10, 11
Amendments to City Charter to be filed with..... 11
When referendum petition to be filed with..... 12
Initiative petition to be filed with..... 11

COMMENT

General remarks..... 111
A new court..... 112
The people versus the legislature.....113
Compulsory voting..... 113
Conclusion 114

COMMITTEEMEN

How elected..... 89

CONSTITUTION

How amended.....4, 199
Of State of Oregon..... 149

CONSTITUTIONAL

Initiative and referendum amendment is..... 17

CONTEST

Notice of..... 83
Notice, how served..... 86
Procedure in..... 87

COUNCIL

When to act on proposed measure..... 11
May ordain without referring..... 11
May ordain and refer..... 11
May ordain competing ordinance..... 11
May propose and submit amendments to charter..... 11
May order special elections..... 12

COUNT

Page.

How made..... 55
How authenticated..... 59

COUNTIES

Measures relating to, how referred..... 10
Number of signers required in..... 10

COUNTY CLERKS

Duties on county measures..... 10
To prepare notice for primary..... 52
To keep register of candidates..... 67
To certify names of candidates..... 67
To have ballots printed..... 70
To make abstract of votes..... 82
To decide nomination by lot..... 83
To certify election expenses of judges and clerks..... 83
To forward abstract of votes..... 84
To ask elector for party affiliation..... 88
To enter names of candidates on certificate in register..... 121
To forward certificate..... 122
To arrange names of certificate candidates and post..... 124
To cancel names of withdrawal candidates..... 125
To provide ballot boxes..... 125
To deliver election necessities to sheriff..... 126
To take receipt for material furnished..... 127
To register electors..... 140

COUNTY COURT

To establish election precincts..... 117
To appoint judges and clerks of election..... 117
To designate polling places..... 117
To appoint second board of judges and clerks..... 118

COUNTY JUDGE

Duties under initiative and referendum..... 10

COURTS

Jurisdiction over signing petitions..... 28
Jurisdiction over filing petitions..... 7
To decide ballot title controversy..... 7
To correct errors in primary elections..... 85
To prevent wrongful acts at primary elections..... 85
A new court suggested..... 112

INDEX.

DELEGATE

Page.

To national convention..... 48
To national convention, pay of..... 49
To national convention, oath of..... 49

DIRECT PRIMARY LAW

When adopted.....29, 45
Rules of construction..... 46
In practice..... 91

DISTRICT ATTORNEY

Duties under initiative and referendum..... 10

DISTRICTS

Power reserved to voters of..... 3
Referendum in..... 10

ELECTION LAWS

Secretary of State to compile..... 133

ELECTION PRECINCTS

At primary election..... 51
When to be established..... 117

ELECTORS

How nominated..... 48

EMERGENCY

How declared..... 18
Legislature to declare..... 20
Measure in cities..... 12

ERRORS

Courts to correct..... 85

EXPENSES

Of arguments in pamphlet..... 8
Of pamphlets in cities..... 10

GOVERNOR

To grant certificates to delegates..... 48
To proclaim proposed measures laws..... 9

HOOD RIVER COUNTY

Recall election in..... 102

INDEX.

INITIATIVE — *Page.*

Defined 2

INJUNCTION

To enjoin title on ballot 6

JUDGES OF ELECTION

By whom appointed 117
Second board of, when appointed 118
To assist illiterate elector 131

KLAMATH COUNTY

Recall election in 97

LEGISLATION

Amount of popular 37

LEGISLATURE

Restricting power of 4, 27

MANDAMUS

To compel filing of petition 6

MEANING OF WORDS

"Local" 22
"Special" 22
"Municipality" 22
"District" 22
"Corporations" 22

MEASURE

Votes for, how canvassed 8
When adopted 9
Conflicting, which paramount 9
How prepared 29
Number of, voted on 37

MEDFORD

Recall election in 107

MUNICIPAL CORPORATIONS

Power reserved to votes of 3

MUNICIPAL ELECTION

Procedure in, under direct primary law 53

NATIONAL COMMITTEEMAN

Page.

How elected 61
Vacancy, how filled 61

NEWSPAPERS

Form of recommendation on proposed measures 143

OATH

Of delegate to National Convention 49

OFFICERS

Penalty for wrongful acts of 86, 133, 134

PAMPHLET

When to be printed 8
When to be sent to voters 8, 10
Size of 32

PENALTIES

For signing wrong name to petition 12
For signing name more than once on petition 12
For violating act carrying into effect Initiative and Referendum .. 12
For acts against direct primary ballot 79, 132
For wrongful acts of officers 86, 133, 134
For various acts 135

PETITION

For initiative, where filed 3
For referendum, where filed 3
Form of initiative 5
Signers required 6, 9
Initiative, when filed 6
Right to sign, not to be taken away 28
Court to investigate sufficiency of 28
Circulating 31
Form of nominating 62
Nominating petition, how verified 64
Number of signatures required on nominating 65
Nominating, when filed 67

POLITICAL PARTY

Defined 60, 120
Primary election separate for each 56
May nominate candidates 120
May fill vacancies 122

INDEX.

POLL BOOKS — *Page.*

Form of 119

PORTLAND

Recall election in 95

PRESIDENT

Candidates for, how nominated 47
Space in campaign book for 50

PRIMARY ELECTION

When held 47
Election precincts and boards 51
Notice of 52
Procedure in cities 53
Counting the vote 55
Records of, to be preserved 68
Method of, voting at 80
Canvass and abstract of votes 82

PROCLAMATION

Governor to declare measures laws by 9

RECALL

Text 93, 160
Who subject to 93, 160
Election in Portland 95
Election in Klamath County 97
Election in Clackamas County 99
Election in Hood River County 102
Election in City of Salem 107
Election in City of Medford 107
General remarks 109
Form of sample ballot 115

REFERENDUM

Against parts of act 3
Defined 2
When referred act becomes law 10
In cities 12

REGISTERS

Of candidates to be kept 67
Contents of 67
To be public documents 68
Certificate candidates to be entered 121

REGISTRATION BLANKS

Page.

Blank A, form of 137
Blank B, form of 139

REGISTRATION BOOK

Form of 136

RETURNS

Message to be sent for delayed 85

SALEM

Recall election in 107

SECRETARY OF STATE

To forward copy of measure to Attorney General 7
To furnish County Clerks with ballot titles 7
To print pamphlet 8
To canvass votes on measures 9
To furnish brass clips 82
To decide nominations by lot 84
To certify candidates to fill vacancies 122
To arrange names of certificate candidates on ballot 123
To compile copies of election laws 133
To furnish election necessaries 133

SELF-EXECUTING

Defined 23
Sec. 1, Art. IV, Const 23
Sec. 1a, Art. IV, Const 23
Sec. 2, Art. XI, Const 24

SHERIFF

To take possession of polling places 127
To furnish polling places 127, 128

SIGNATURES

Number required on nominating petition 65
Qualification of signers on nominating petitions 66

STATE LAW

(See Measure)

TALLY SHEETS

Form of 56

INDEX.

TIME

Page.

When pamphlet to be printed..... 8
When pamphlets to be sent to city voters..... 10
When Primary Election to be held..... 47
When primary ballots to be sent to County Clerks..... 69

TITLE

Ballot, what to contain.....7, 20, 21
Ballot, how numbered..... 8

TOWNS

(See Cities)

UNITED STATES SENATOR

To be voted for..... 82

VACANCIES

By death or withdrawal..... 68

VETO

How far abridged..... 18

VICE-PRESIDENT

Candidates for, how nominated..... 47
Space in campaign book for..... 50

VOTERS

Percentage of, required on initiative petition..... 2
Percentage of, required on referendum petition..... 2

VOTES

Number for proposed measures..... 35
Counting in primary election.....55, 58
Count completed and authenticated..... 59

VOTING

Method of, at direct primary.....80, 129
Compulsory suggested 113